

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

921 CIVIL APPLICATION NO. 10094 OF 2018
IN FAST/38223/2017

JAYSHREE SANJAY MENGADE AND ORS
VERSUS
THE DIV. MANAGER NEW INDIA ASSURANCE CO. LTD.,
AHMEDNAGAR AND ANR

...
Advocate for Applicants : Mr. Markad Dattraya R.
Advocate for Respondent no.1 : Mr.S. R. Bodade
....

CORAM : SUNIL K. KOTWAL, J.

DATE : AUGUST 24, 2018

O R D E R :

This Civil Application is filed by original claimants in M.A.C.P. No. 188 of 2013 for withdrawal of entire compensation amount deposited by appellants in First Appeal. Learned counsel for respondents opposed this application for withdrawal on the ground that the compensation awarded by the Trial Court is exorbitant and there was contributory negligence on the part of the deceased. However, while considering this application for withdrawal of compensation amount, merits of the case need not be considered.

2. After going through the judgment and award, passed by the Tribunal, it emerges that total compensation of Rs. 35,65,000/- inclusive of compensation received for no fault liability was awarded. Out of that amount, Rs. 15,15,000/- are allotted to applicant no.1, Rs. 7,00,000/- each are allotted to applicant nos. 2 and 3 who are minor and Rs. 3,00,000/- are allotted to applicant nos. 4 and 5 who are old aged persons.

3. Out of the share of applicant no.1 Rs. 5,00,000/- and out of the share of applicant nos.4 and 5 Rs.1,50,000/- each are to be invested in any Nationalized Bank. Considering these directions regarding investment of the amount of share of applicant nos. 1, 4 and 5, it is desirable that compensation amount of Rs. 6,00,000/- is to be refunded to applicant no.1 and Rs. 1,00,000/- each is to be refunded to applicant nos. 4 and 5, subject to condition that they shall file undertaking in the First Appeal to deposit the same as and when directed

by this Court. Undertaking be submitted within a period of three weeks from the date of this order. The Registrar (Judicial) to take necessary steps for refund of above said compensation amount after obtaining necessary undertaking.

4. Civil Application is disposed of accordingly.

[SUNIL K. KOTWAL, J.]

dbm