

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

50 CIVIL APPLICATION NO. 16246 OF 2016
IN FA/35/2017

SARIKA SURESH PAWAR AND ORS
VERSUS
UNITED INDIA INSURANCE CO. LTD. THR ITS ADM. OFFICER AND ORS

...
Advocate for Applicants : Mr. Pramod C Mayure
Advocate for Respondent No.1 : Mr.S.S. Rath
Advocate for Respondent No. 2 : Mr.S.S. Pathunkar

...
CORAM : K.K. SONAWANE, J.
DATED : 2nd JULY, 2018.

Order :-

1. Heard learned counsel for the parties.
2. Present application is moved by the applicant-original claimants seeking permission for withdrawal of the amount. Admittedly, the deceased was driving the motor bike involved in the accident. It has been alleged that his motor bike was slipped and he fell on the road and succumbed to the injuries.
3. Mr. Rath, learned counsel raised objection and submits that the deceased was driving the motor cycle involved in the mishap. Therefore, he cannot be said to be third party and risk was not covered under third party Insurance Policy. Therefore, the claimants are not entitled to receive compensation under third party Insurance Policy.
4. In view of nature of subject-matter and submissions advanced on behalf of both sides, I find force in the contention put forth on behalf of Mr. Rath, the learned counsel for respondent – Insurance Company. Admittedly, it is doubtful that the loss could be indemnify following accidental death of driver of the motor bike itself. In such circumstances, it is unsafe to entertain the application. Therefore, application being devoid of merit deserves to be dismissed. Accordingly, application stands dismissed.

[K. K. SONAWANE]
JUDGE