

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3016 OF 2018
IN FA/1720/2012

DURGABAI DATTA BALAPURE AND ORS
VERSUS
M/S ORIENTAL INSURANCE CO. LTD THR SR DIVISIONAL MANAGER
AND ANR.

...
Mr. H.I. Pathan, Advocate for applicants
Mr. V.N. Upadhye, Advocate for respondent no.1
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 01-03-2018

ORDER :

1. Heard learned counsel for the parties.
2. This is an application for withdrawal of the compensation granted by motor accident claims tribunal at Nanded, deposited in the tribunal. The claimants are wife, two minor children and parents of the deceased.
3. Applicants fairly refer to that earlier on, application for withdrawal of amount bearing no. 1572 of 2013 had been disposed vide order dated 21-02-2014 since the court then had deemed it expedient to hear the appeal and liberty was given to applicants to file similar application, in case appeal was not heard within a period of three months, however, since then, the matter could not be considered. He, therefore, urges to consider the request earnestly.

4. The compensation amount has been awarded in 2012. Applicants state that they have not received any amount beyond no-fault liability. Day by day, it is becoming increasingly difficult for them to move on in life. They are in dire need of money.

5. Learned counsel for respondent no. 1 *albeit* resists, stating that there are valid reasons on which the claim is not sustainable and states that the matter may be fixed for final hearing.

6. However, looking at aforesaid position that the applicants have not received any amount of compensation since 2012 till today, I deem it expedient that applicants be allowed 50% of the amount deposited before the tribunal along with accrued interest, subject to filing an undertaking that they will pay back / redeposit the amount in this court if decision in the appeal goes against them.

7. As such, civil application is allowed to aforesaid extent. The applicants are allowed to withdraw 50% of the amount deposited before tribunal along with accrued interest thereon, on furnishing undertaking that the amount being withdrawn under this order, would be deposited in this court within a period of three months from the date of decision in appeal, if the decision goes against them. Undertaking to be filed within three weeks from today. Upon filing undertaking as directed, 50% of the amount deposited before tribunal along with accrued interest thereon, be

allowed to be withdrawn by them.

8. Civil application is disposed of accordingly.

9. First appeal be placed for hearing in the week commencing from 23-04-2018.

10. Paper book, if any, be prepared in right earnest. Print dispensed with.

[SUNIL P. DESHMUKH]
JUDGE

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