

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.4078 OF 2017
IN
FIRST APPEAL (STAMP) NO.6880 OF 2017**

Ujwala Appaso Kirdat & Ors.	...Applicants
Versus	
Bajaj Allianz General Insurance Co. Ltd.	...Respondents
.....	
Mr. Mahendra B. Deshmukh for the Applicants.	
Mr. D.S. Joshi for the Respondent.	

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 21st MARCH, 2018.

P.C.:-

The Applicants herein, who are the original claimants have sought withdrawal of amount deposited by the Respondent -Insurance company pursuant to the judgment and award dated 22.7.2016 passed by the Motor Accident Claims Tribunal, Sangli in M.A.C.P No.23 of 2014.

2. The Applicant No.1 is the widow, Applicant Nos.2 and 3 are the children and Applicant No.4 is the mother of the deceased Appaso Kirdat, who expired due to the injuries sustained in a motor vehicular accident. The Applicants had filed Motor Accident Claim Petition

No.23 of 2014 under Section 166 of the Motor Vehicle Act, 1988 before the Motor Accident Claims Tribunal, Sangli and by judgment and award dated 22.7.2016 the Tribunal awarded compensation of Rs.18,87,000/- in favour of the Applicants, which is inclusive of no fault liability, alongwith with interest at the rate of 9% per annum from the date of the Petition till realization of the entire amount.

3. The Appellant-Insurance company has challenged the said award and during the pendency has deposited Rs.24,49,198/-, which is inclusive of interest. The Applicants have prayed that the said amount be paid to them. The learned counsel for the Respondent-Insurance company submits that the Insurance company has disputed the quantum and hence the entire amount may not be paid.

4. Having perused the impugned judgment as well as the grounds raised in the appeal, in my considered view 50% of the compensation can be paid to the Applicants. The Tribunal has held that the Applicant Nos.2 and 3 are entitled for Rs.5,95,600/- each with interest @ 9% per annum. The Applicant Nos.1 and 2 be paid 50% each of Rs.5,95,600/- alongwith proportionate interest accrued thereon. The Applicant No.3 is a minor hence, compensation of

Rs.5,95,600/- alongwith interest accrued thereon is ordered to be invested in any Nationalised Bank till disposal of the appeal with liberty to the Applicant No.1 to withdraw interest from the said account. The Tribunal has held that the Applicant No.4 is entitled to an amount of Rs.50,000/-. 50% of the said amount with proportionate interest is ordered to be paid to the Respondent No.4.

5. The application stands disposed of.

6. It is made clear that payment is subject to final outcome of the appeal. The Applicants to file necessary undertaking before the M.A.C.T., Sangli, that they shall abide by the order that may be passed in the appeal.

(SMT. ANUJA PRABHUDESSAI, J.)