

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

**1043 CIVIL APPLICATION NO.3348 OF 2019
IN FA/525/2018**

**HUKUMCHAND ROSHANILAL TURKR AND ANR
VERSUS
IFFCO TOKIO GENERAL INSURANCE CO. LTD., THR ITS AUTHORISED
SIGNATORY LATOR AND ANR**

...
Advocate for Applicants : Mr. Jadhavar Aashish T
Advocate for Respondent No.1 : Mr. V. N.Upadhye
...

**CORAM : SMT. VIBHA KANKANWADI, J.
DATE : 5th JULY 2019**

ORDER :

1. Present application has been filed for withdrawal of the amount deposited by the present respondent No.1. Amount of Rs.6,92,476/- has been deposited in view of the order passed by this Court.
2. Heard both sides.
3. The learned Advocate for the applicants submitted that the applicants were dependent on the earnings of the deceased and therefore, they are in need of money.
4. Per contra the learned Advocate appearing for respondent No.1 has submitted that the Insurance Company had taken defence that

the petition under Section 163-A of the Motor Vehicles Act, 1988 was not at all maintainable. Under the facts and circumstances of the case, it was contended that the deceased was dashed by unknown truck. How the motorcycle owned by respondent No.1 in the petition and insured with respondent No.2 therein could have been involved is the question. Taking into consideration the defence that has been taken together with the story and the fact that the petition was under Section 163-A of the Motor Vehicles Act, 1988 it is not desirable that the applicants should be allowed to withdraw the amount. It would be in the interest of the parties to place the matter itself for final hearing and therefore, place the First Appeal No.525 of 2018 for final hearing at the stage of admission itself on 19-08-2019.

(Smt. Vibha Kankanwadi, J.)

Shubham/