

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

**1028 CIVIL APPLICATION NO.3334 OF 2018
IN FA/1581/2011**

**SHOBHA SOPAN KHAIRE AND ORS
VERSUS
HDFC CHUBB GENERAL INSURANCE COMPANY LTD AURANGABAD AND
ANR**

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Advocate for Applicants : Mr. Imale Ramesh R. & Mr. H C Puse

Advocate for Respondent No.1 : Mr. D.S. Kulkarni & Mr. S.G.

Chapalgaonkar

Advocate for Respondent No.2 : Mr. M.V. Nagargoje

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 11th OCTOBER, 2019.

ORDER :

. Present application has been filed for withdrawal of amount deposited by respondent No.1. Amount of Rs.5,76,175/- is stated to have been deposited and the appeal itself is dismissed.

2. Learned Advocate appearing for the appellant-insurance company submits that separate application has been filed vide Civil Application No.12124 of 2019 for condoning the delay and restoration of the first appeal. When the matter was on board for taking steps as against respondent No.5 who had expired and in fact when his legal

representatives were already on record, no steps were required in the said matter. Yet, taking into consideration the conditional order passed by this Court, the entire appeal is treated as disposed of.

3. As regards the application filed by the insurance company is concerned, that will be considered separately, but the note of the same that the original appellant is seeking restoration of the appeal is required to be taken and then, at least, case is made out for partial withdrawal of the amount.

4. It appears from the judgment of the trial Court that even the claimant No.2 is major. It appears that age of applicant Nos.3 and 4 is wrongly mentioned. Taking into consideration their age before the tribunal, they appeared to be still minors and therefore, they cannot be allowed to withdraw any amount. Only applicant Nos.1, 2 and 5 can be allowed to withdraw the amount.

5. Taking into consideration the amount deposited, amount of Rs.50,000/- be given to applicant Nos.2 and 5 and further an amount of Rs.2,00,000/- be given to applicant No.1.

6. Applicants shall file an undertaking within a period of eight weeks that they would make the said amount good, if directed at the time of final disposal of the appeal.

7. Civil Application stands disposed of accordingly.

(SMT. VIBHA KANKANWADI, J.)

SCM