

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

**932 CIVIL APPLICATION NO.3136 OF 2019
IN FA/3528/2018**

SAVITA RAJKUMAR WARKAD AND ORS .. Applicants
VERSUS

THE NATIONAL INSURANCE CO. LTD.,
THR ITS DIVISIONAL MANAGER,
AURANGABAD AND ORS .. Respondents

...
Advocate for Applicants : Shri D.A. Mane
Advocate for Respondent No.1 : Shri S.V. Kulkarni
...

CORAM : PR. BORA, J.
Dated: March 05, 2019

PER COURT :

1. Heard Shri Mane, learned Counsel appearing for the applicants and Shri Kulkarni, learned Counsel appearing for the respondent - Insurance Company. Perused the impugned Judgment and the grounds of objections raised in exception to the said Judgment.

2. The learned Counsel for the applicants has sought withdrawal of the entire amount stating that, the marriage of one of the claimants is to be performed in near future. The request so made is opposed by learned Counsel Shri Kulkarni. The learned Counsel submitted that, the very involvement of the offending truck is disputed. The learned Counsel further submitted that, the FIR was

filed against the unknown vehicle and subsequently in the charge-sheet only the involvement of the present vehicle is shown. The learned Counsel, in the circumstances, prayed for hearing the appeal finally instead of considering the application for withdrawal of the amount.

3. Learned Counsel Shri Mane submitted that, Insurance Company did not adduce any evidence in the matter and the avernments made by the claimants have gone unchallenged. The learned Counsel submitted that, the primary burden was discharged by the claimants by placing on record the relevant police papers pertaining to the accident in question. The learned Counsel, in the circumstances, prayed for allowing the application.

4. After having considered the submissions so made, I deem it appropriate to pass the following order.

ORDER

(i) The applicants are permitted to withdraw 50% of the deposited amount on submitting an undertaking to the satisfaction of the Registrar of this Court and further 25% of the deposited amount on submitting solvent surety / security in the like amount to the

satisfaction of the Registrar of this Court. Balance 25% amount be invested in Fixed Deposit Receipt in any Nationalized Bank for the period till disposal of the appeal. Civil Application stands disposed of.

(ii) Record & Proceedings be called.

(P.R. BORA, J.)