

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

38 CIVIL APPLICATION NO.3699 OF 2019
IN FAST/13819/2018

MAHADABAI @ MAHADIKABAI LAXMAN DEMGUNDE AND ORS
VERSUS
THE BRANCH MANAGER, NATIONAL INSURANCE CO. LTD., THR ITS
AUTH. SIGNATORY DY. MANAGER AND ORS.

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Advocate for Applicants : Mr.Panale Sachin S.
Advocate for Respondent No. 1 : MR. V. R.Mundada
Advocate for Respondent No. 2 : Mr.S. B.Madde
Advocate for Respondent No. 3 : Mr.M.V. Nagargoje

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CORAM : SUNIL K.KOTWAL, J.
DATE : 15th APRIL, 2019

O R D E R :

Heard learned counsel for applicants and learned counsel for respondent no. 1.

2. Learned counsel for respondent No. 1 vehemently opposed this application on the ground that involvement of the offending vehicle is disputed by respondent insurance company. He has pointed out that there is inordinate delay of 22 days in lodging FIR after occurrence of the accident.

3. Learned counsel for applicants submits that at present applicant no. 2, who was minor at the time of filing of claim petition has attained the majority and she is now of marriageable age. He submits that the major applicants are ready to furnish solvent securities for the withdrawn amount.

4. I have gone through the judgment and award passed by the Tribunal. Out of these claimants, at present claimant Nos. 3 and 4 are the minors. Claimant Nos. 1, 2 and 5 & 6 are major. So also considering the marriageable age of claimant no. 2, it is desirable to allow applicants to withdraw some part of compensation amount deposited by the insurance company, subject to certain conditions.

5. Therefore, applicant nos. 1, 2, 5 and 6 are allowed to withdraw only 40% of compensation amount with proportionate accrued interest deposited by the insurance company in the court, subject to the filing of solvent security for the withdrawn amount with undertaking of applicant Nos. 1,2, 5 and 6, to re-deposit withdrawn amount as and when directed by this Court.

6. The solvent security, to the satisfaction of Registrar (Judicial) and written undertaking shall be filed within eight weeks from the date of passing of this order.

7. The balance 60% amount shall be invested in fixed deposit, in any nationalized bank till final hearing of this appeal.

8. Civil Application is disposed of.

[SUNIL K.KOTWAL, J.]

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