

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

CIVIL APPLICATION NO.4999 OF 2019

IN

FIRST APPEAL NO. 966 OF 2012

Babulal Budhiram Vishwakarma & anr.

Applicants.

Versus

The New India Assurance Co. Ltd & ors.

Respondents.

Mr. Yogesh. Jadhav, Advocate holding for
Mr. S.S. Barhate, Advocate for applicants.

Mr. A.B. Kadethankar, Advocate for respondent No.1.

Mr. S.S. Randive, Advocate for respondent No.3.

CORAM : SUNIL K. KOTWAL, J.

Dated : 24 April 2019.

ORDER.

. Heard learned Counsel for the applicants and learned Counsel for Insurer as well as learned Counsel for owner of offending vehicle. Learned Counsel for the Insurer opposes this application for withdrawal of compensation amount on the ground that the policy of offending vehicle is 'act on policy', and therefore risk of the deceased, who was travelling by private vehicle, is not covered. Learned Counsel Mr. Randive also objects the application.

2. I have gone through the award passed by the Tribunal. At this premature stage it is not desirable to express my opinion on merits of the case. However, after going through the quantum of compensation, I feel it proper to allow the applicants to withdraw 50 % amount out of proportionate accrued interest thereon out of compensation deposited in the Court, subject to furnishing solvent surety for the withdrawn amount to the satisfaction of the Registrar (Judicial), to deposit the same as and when directed by this Court, within the period of 12 weeks from today.

3. The balance amount shall be invested in fixed deposit in any Nationalized Bank till final disposal of the appeal.

4. Final hearing of the appeal at the stage of admission is expedited, as record and proceeding is already received by this Court.

5. Civil Application is disposed of in above-said terms.

6. Place the first appeal on 24 June 2019.

(SUNIL K. KOTWAL)
JUDGE

vdd/