

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

**1037 CIVIL APPLICATION NO.6851 OF 2018
IN FA/2419/2018**

**SUNDARBAI DIGAMBAR GAIKWAD AND ORS
VERSUS
M/S SHRIRAM GENERAL INSURANCE CO. LTD., THRU ITS BRANCH
MANAGER, AURANGABAD AND ORS**

...
Advocate for Applicants : Mr. Dagadkhair D.K.
Advocate for Respondent No.1 : Mr. S.S. Dargad h/f Mr. S. G.
Chapalgoankar
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 30th AUGUST, 2019

ORDER :

. Present application has been filed for withdrawal of the amount. Amount of Rs.5,99,722/- has been deposited towards the impugned judgment and award. Learned Advocate appearing for the respondent-Insurance Company/appellant submits that the appeal has been filed on two grounds i.e. there was breach of terms of policy, and deceased himself was negligent.

2. At the outset, it appears that there was no evidence laid by the insurance company independently in order to canvass these two points and therefore, the insurance company intends to rely on the evidence which is

already on record and to support those points, which now the company wants to agitate when a competent Court has come to the conclusion at this stage, then prima facie case is made out for partial withdrawal of the amount. Under such circumstance, applicant Nos. 1 and 2 are allowed to withdraw amount of Rs.3,00,000/- and it be distributed between them equally subject to filing 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.

3. Civil Application stands disposed of accordingly.

(SMT. VIBHA KANKANWADI, J.)

SCM