IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.9401 OF 2019
IN
FIRST APPEAL (ST.) NO.6654 OF 2018
(Hanmant Vilas Patil and others Vs. National Insurance Co.Ltd., through its Divisional Manager, Aurangabad and others)

Mr. Laxmikant C. Patil, Advocate for the applicants
Mr. S.R. Bodade, Advocate for respondent No.1

CORAM : MANGESH S. PATIL, J.

DATE : 27th NOVEMBER, 2019

PER COURT :

Heard both sides.

2. The original claimants are seeking withdrawal of the amount of compensation deposited by the appellant – Insurance Company in this Court on account of death of their father.

3. The learned Advocate for the Insurance Company opposes the application and submits that the deceased was a pensioner. It was an accident involving two vehicles. The liability has been fastened on one of the vehicle owner and insurer. There is a serious issue regarding contributory

negligence.

4. Considering the fact that apparently, the Tribunal has assessed the compensation in accordance with the guidelines laid down in the case of ***Sarla Verma (Smt.) & Ors. Vs. Delhi Transport Corporation & Anr. (2009)6 SCC 121*** and ***National Insurance Co.Ltd. Vs. Pranay Sethi & Ors. 2017(3) GLH 536*** and the fact that the deceased was a person travelling in one of the two vehicles and the cause of accident vis-a-vis him would only be about composition, the applicants could have proceeded against the owner and insurer of either of the vehicles involved in the accident and therefore, it would be just and proper to allow the applicants to withdraw 75% of the amount of compensation subject to furnishing an undertaking in the usual terms.

5. The Civil Application is allowed. The applicants are allowed to withdraw 75% of the amount of compensation together with interest by furnishing usual undertaking.

[MANGESH S. PATIL]
JUDGE

npj/ca9401-2019