

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

**CIVIL APPLICATION NO. 9350 OF 2019
IN
REJECTED CASE NO. 626 OF 2019
IN
FIRST APPEAL STAMP NO. 7734 OF 2017**

**VISHWANATH BHIMRAO KAPSE AND ANOTHER
VERSUS
M/S NATIONAL INSURANCE CO. LTD AND OTHERS**

Advocate for Applicants : Mr. R.I. Wakade.
Advocate for Respondent No. 1 : Mr. V. N. Upadhye.

**CORAM : MANGESH S. PATIL, J.
DATE : 03.12.2019**

PER COURT :

The original claimants are seeking withdrawal of the amount deposited by the Insurance Company while seeking stay to the impugned award.

2. The learned advocate for the Insurance Company submits that it is a matter of accident between two vehicles. Though, both of them were insured with it, both are goods carrying vehicles and the question of negligence may have some consequence and therefore, the applicants / claimants may not be allowed to withdraw the amount.

3. Admittedly, the deceased was not driving any of the vehicles. Both the vehicles were insured with the Insurance Company. At his juncture, the applicants / claimants can be allowed to withdraw the entire amount by furnishing usual undertaking. However, the applicant / claimant No. 2 has

died and only applicant / claimant No. 1 can be allowed to withdraw the money.

3. The application is allowed.

4. The application No. 1 is allowed to withdraw the amount of Rs. 75,000/-, by furnishing usual undertaking.

(MANGESH S. PATIL, J.)

S.R.C.