

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

**1014 CIVIL APPLICATION NO.6940 OF 2019
IN FA/325/2019**

**PRITI RAMDAS SHINDE AND ORS
VERSUS
JAYSHANKAR BALASAHEB KALE AND ANR**

...
Advocate for Applicants : Mr. Choudhari Sushant B
Advocate for Respondent No.2 : Mr. S.G. Chapalgaonkar
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 27th SEPTEMBER, 2019.

ORDER :

. Present application has been filed for withdrawal of the amount. Amount of Rs.57,81,993/- has been deposited in this Court by the insurance company.

2. The insurance company raises strong objection for withdrawal of the amount on the ground that the appeal has been filed challenging the involvement of the vehicle which was insured with it. There is belated FIR and the witness who has been examined by the claimants is not trustworthy as he himself had not lodged any report with the police. It is also stated that the appeal has been filed challenging the quantum.

3. Taking into consideration the contents of the impugned judgment, so also the fact that there was no evidence laid by the insurance company to counter the evidence that was adduced by the claimants, case is definitely made out for partial withdrawal of the amount.

4. Taking into consideration the fact that applicant Nos.2 and 3 are minors and the apportionment is made in respect of distribution of compensation to them by the learned tribunal, it is not feasible for the applicant Nos.2 and 3 to withdraw the amount which has been apportioned to them. Only applicant Nos.1 and 4 are entitled to withdraw partial amount. Out of the said award of Rs.44,03,951/-, amount of Rs.32,00,000/- is stated to be invested in the name of the applicants and therefore, amount of Rs.12,00,000/- is available for distribution. It will not be out of place to mention here that it is necessary to keep the said amount which has been directed to be put under fixed deposit, as it is in the interest of the parties. Hence, out of the apportionment made to applicant No.4, she is allowed to withdraw amount of Rs.2,00,000/- and applicant No.1 who supposed to run the house now, is allowed to withdraw amount of Rs.10,00,000/-.

5. Applicants shall file 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.
6. Civil Application stands disposed of accordingly.

(SMT. VIBHA KANKANWADI, J.)

SCM