

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

**988 CIVIL APPLICATION NO.8465 OF 2019
IN FAST/38038/2018**

**LAXMIBAI @ VIJAYA TANHAJI TALAPE AND ORS
VERSUS
PRIYANKA TOUR AND TRAVELS AND ANR**

...

Advocate for Applicants : Mr. Kute Rajendra L.
Advocate for Respondent No.2 : Mr. M M Ambhore

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 13th SEPTEMBER, 2019.

ORDER :

. Present application has been filed by the original claimants for withdrawal of the amount. Amount of Rs.23,16,242/- has been deposited in this matter. Learned Advocate appearing for respondent No.2 has strong objection. He submits that the appeal has been filed on the ground that the deceased was gratuitous passenger whose risk was not covered under the policy and it was a contract carriage.

2. Perusal of the impugned judgment shows that the said point was dealt with by the learned tribunal and under such circumstance, when the tribunal has come to a conclusion on the basis of the evidence laid

holding the insurance company liable to pay compensation jointly and severally, then case is definitely made out for partial withdrawal of the amount.

3. Applicant Nos.2, 3 and 7 are minors, therefore, they cannot be allowed to withdraw any amount. Only applicant Nos.1, 5 and 6 are allowed to withdraw the amount. Applicant Nos.5 and 6 are allowed to withdraw amount of Rs.1,00,000/- each and applicant No.1 is allowed to withdraw 7,00,000/- 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.

4. Civil Application stands disposed of accordingly.

(SMT. VIBHA KANKANWADI, J.)

SCM