

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

**1016 CIVIL APPLICATION NO.9106 OF 2019
IN FAST/33715/2017**

**SHARADA VISHNU FAD AND ORS
VERSUS
SHRIRAM GENERAL INSURANCE CO. LTD., PUNE AND ANR**

...
Advocate for Applicants : Mr. Bagal Suraj R.
Advocate for Respondent No.1 : Mr. K.N. Upadhye
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 27th SEPTEMBER, 2019.

ORDER :

. Present application has been filed for withdrawal of the amount. Amount of Rs.8,27,749/- has been deposited.

2. Learned Advocate for the insurance company raises strong objection on the point that the petition under Section 163-A, which was in fact later on converted from the petition under Section 166 of the Motor Vehicles Act, was not maintainable. Initially, the claimants had come with the case that the deceased was earning Rs.10,000/- per month, but then that figure was lower down and therefore, when initially it was so contended that income of the deceased was more than Rs.40,000/-, the petition itself was not maintainable.

3. At this stage, it is to be noted that the competent Court has considered the petition as under Section 163-A and the compensation has been awarded. Taking into consideration the income of the deceased at the rate of Rs.3,300/- per month, case is made out for partial withdrawal of the amount.

4. Applicant Nos.2 and 3 are minors and therefore, they cannot be allowed to withdraw their share, nor anybody else can be allowed to withdraw their share on their behalf. Only applicant Nos.1, 4 and 5 are entitled to withdraw the amount. Applicant Nos.4 and 5 are the parents of the deceased and therefore, they are allowed to withdraw amount of Rs.50,000/- each. Applicant No.1, at present, appears to be responsible to run the house, is allowed to withdraw amount of Rs.2,50,000/-.

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