

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

**21 CIVIL APPLICATION NO.9394 OF 2019
IN FA/823/2019**

**SMT. SARLA SUBHASH SANAP AND ORS
VERSUS
BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD., THR ITS
AUTHORISED SIGNATORY AND ORS**

...
Advocate for Applicants : Mr. Bhokarikar Madhav M.
Advocate for Respondent no.1 : Mr. S. G. Chapalgoankar
...

CORAM : MANGESH S. PATIL, J.

DATE : 20.11.2019

PER COURT :

Heard both the sides. The applicants who are the original claimants are seeking withdrawal of the amount deposited by the insurance company which has preferred the first appeal.

2. In fact, by the impugned judgment and award only the original claimant nos.1 and 4 i.e. the wife and the minor daughter of the deceased have been found entitled to receive the compensation. Obviously the other claimants would not be entitled to withdraw anything.

3. Again, the original claimant no. 4 is minor and therefore even there is no question of allowing anything to be withdrawn in her

respect.

4. The learned advocate for the insurance company opposes the application. He submits that there is serious dispute about involvement of the vehicle. The F.I.R. has been lodged belatedly. The driver in his statement under Section 161 of the Code of Criminal Procedure has also flatly denied occurrence of the accident involving the vehicle which he has driving. It's request to call the investigating officer as the witness has also been refused and therefor they may not be allowed to withdraw anything.

5. Considering the fact that it is a matter of death claim, coupled with the fact that there is a finding of fact holding that the vehicle was involved in the accident, the applicant no.1 i.e. the widow alone deserves to be allowed to withdraw 75% of the amount of compensation to which she has been found entitled to in the award.

6. The application is accordingly allowed only to the extent of the applicant no.1 i.e. the widow of the deceased who shall be allowed to withdraw 75% of the amount to which she is entitled to, on furnishing an undertaking in the usual terms and condition.

(MANGESH S. PATIL, J.)