

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

**1045 CIVIL APPLICATION NO.11351 OF 2019
IN FAST/2049/2019**

**BALIKA VENKAT KAMBLE AND ANR
VERSUS
ICICI LOMBARD GENERAL INSURANCE CO. LTD., THR ITS BRANCH
MANAGE LATUR AND ANR.**

...
Advocate for Applicants : Mr. Kendre N.D.
Advocate for Respondent No.1 : Mr. Abhijit G. Choudhari
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 20th SEPTEMBER, 2019.

ORDER :

. Present application has been filed for withdrawal of the amount. Amount has been deposited to the extent of Rs.17,89,996/- by present respondent No.1-original appellant.

2. Learned Advocate appearing for the insurance company raises strong objection on the ground that the appeal has been filed on the point of quantum as well as breach of terms of policy which was not considered by the tribunal, as the driver of the offending vehicle was not holding valid and effective driving license on the date of the accident.

3. It appears from the impugned judgment that the said point was raised by the insurance company regarding breach of terms of policy and a finding has been given by the competent Court at this stage, holding the insurance company liable to pay compensation jointly and severally with other respondents. Under such circumstance, case is made out for partial withdrawal of the amount.

4. Applicant No.2 being minor cannot be allowed to withdraw amount of his share. However, applicant No.1 is allowed to withdraw amount of Rs.7,00,000/- subject to filing an undertaking that she would make the said amount good, if directed at the time of final disposal of the appeal.

5. Civil Application stands disposed of accordingly.

(SMT. VIBHA KANKANWADI, J.)

SCM