

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

111 CIVIL APPLICATION NO.10924 OF 2019
IN FA/3201/2017

SAYYAD ABBAS HUSSENBHAI AND ORS
VERSUS
VAIBHAV DHARMANATH KHALATE AND ANR

...
Advocate for Applicants : Mr. Garud N. C.
Advocate for Respondent No.2 : Mr. S. G. Chapalgaonkar
...

CORAM : MANGESH S. PATIL, J.

DATE : 08.11.2019

PER COURT :-

Learned advocate Mr. Gurud submits that his client has already discharged the earlier advocate by following necessary procedure in terms of the rules framed by the High Court under the Advocates Act by serving notice and has also received an acknowledgment. He produces on record all these papers, which are taken on record.

2. This is an application filed by the original claimants seeking withdrawal of the compensation awarded to them by the Tribunal.

3. Learned advocate for the respondent-Insurance Company, who has preferred the appeal, submits that there was breach of the terms and conditions of the policy. The driver of the vehicle was not possessing valid and effective driving licence and it stood

exonerated and therefore, unless the appeal is decided, no amount be paid to the applicants.

4. Without indulging into the merits, since it is a matter of accident claim compensation, the applicants deserve to be paid the amount. Needless to state that even if the appeal is allowed in favour of the Insurance Company, it would be entitled to recover it from the owner.

5. In view of above, the applicants are allowed to withdraw an amount of Rs.6,00,000/- (Rs. Six lakhs) out of the amount deposited by the respondent – Insurance Company in the same proportion in which they have been found entitled by the Tribunal, subject to furnishing an undertaking that in case that this Court orders, they shall refund the amount.

6. Civil application is accordingly disposed of.

(MANGESH S. PATIL, J.)

vsm/-