

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

**1044 CIVIL APPLICATION NO.11339 OF 2019
IN FAST/6277/2019**

**SONALI NAGNATH KOREWAD AND ORS
VERSUS
SANJU BHANUDAS GAIKWAD AND ORS**

...
Advocate for Applicants : Mr. Pokale Dnyaneshwar B.
Advocate for Respondent No.3 : Mr. Dhananjay P. Deshpande
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 20th SEPTEMBER, 2019.

ORDER :

. Present application has been filed for withdrawal of amount.
Amount of Rs.57,62,228/- has been deposited by the insurance company.

2. Learned Advocate appearing for the insurance company raises strong objection on the ground that the involvement of the vehicle has not been properly proved. The evidence of the so called eye witness is not trustworthy and he had not lodged FIR. Therefore, the applicants may not be allowed to withdraw the amount.

3. It is to be noted that the claimants had examined eye witness and his evidence has been appreciated by the tribunal. It appears that

there was no evidence laid by the insurance company on the point of negligence. Respondent Nos.1 and 2 i.e. driver and owner of the offending vehicle did not contest the matter and matter has proceeded ex-parte against them. On this point, definitely, case is made out for allowing the applicants to withdraw the amount partially.

4. Applicant Nos.2 and 3 are minors, therefore, they cannot be allowed to withdraw any amount which has been given to their share. Applicant Nos.4 and 5 are the parents of the deceased, under the said circumstance, they are allowed to withdraw amount of Rs.3,00,000/- each. Applicant No.1, who is the widow of the deceased, who may be responsible to run the house now, is allowed to withdraw amount of Rs.7,00,000/-.

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