

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

**19 CIVIL APPLICATION NO.11800 OF 2018
IN FAST/608/2018**

**SINDHUBAI SURESH DHANDE (DIED) THR LRS TUSHAR
VERSUS
THE RELIANCE GENERAL INSURANCE CO. LTD., THR THE
MANAGER, MUMBAI AND ANR**

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Advocate for Applicants : Mr. Bhokarikar Madhav M.
Advocate for Respondent : Mr. Swapnil Patil h/f. Mr. V. P. Raje and
Mr. R.H. Dahat

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CORAM : MANGESH S. PATIL, J.

DATE : 20.11.2019

PER COURT :

This is an application by the original claimants armed with the award passed by the Motor Accident Claims Tribunal, seeking withdrawal of the amount deposited by the insurance company of the offending vehicle while seeking stay to the operation and execution of the award filed along with an application for condonation of delay.

2. The learned advocate for the insurance company strongly opposes the application. He submits that there is a serious dispute as regards existence of the insurance contract itself and therefore it is not liable to indemnify the owner.

3. Perusal of the record would reveals that in fact the First

Appeal itself has not been registered since there is a delay. The application for condonation of delay is still pending and in fact it stands dismissed as against the owner/insured. The insurance company till date has not taken suitable steps.

4. It is in view of such state of affairs, in my considered view when it is a matter of compensation on account of death, the original claimants deserve to be allowed to withdraw 50% of the amount deposited in this Court subject to furnishing an undertaking that they would refund it if and when directed by this Court. The application is disposed of.

(MANGESH S. PATIL, J.)

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