

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

**1029 CIVIL APPLICATION NO.11725 OF 2019
IN FA/420/2019**

**CHANDRAKALA SANTOSH KOLI AND ORS
VERSUS
CHANDRAKANT VITHALRAO KUMBHAR AND ANR**

...
Advocate for Applicants : Mr. Rodge Suresh N.
Advocate for Respondent No.2 : Mr. S. G. Chapalgaonkar
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 27th SEPTEMBER, 2019.

ORDER :

. Present application has been filed for withdrawal of the amount. Amount of Rs.15,95,817/- has been deposited by the insurance company. Learned Advocate appearing for the insurance company has submitted that the claimants had failed to prove the employer and employee relationship between deceased and respondent No.1. In fact, respondent No.1 had given statement before police immediately after the accident, that the deceased had taken his vehicle as his friend and not as employee. Another point, on which the appeal has been filed is that driver of the offending vehicle had no valid and effective driving license to drive the vehicle on the date of the accident.

2. Both the points were before the learned Commissioner and the said competent Court has come to the conclusion and given finding, therefore, definitely, at this stage, case is made out for partial withdrawal of the amount. Applicant Nos.2 and 3 are minors and therefore, they cannot be allowed to withdraw any amount.

3. Taking into consideration the age of the widow i.e. applicant No.1 and the fact that she required to run the house, she is allowed to withdraw amount of Rs.6,00,000/- subject to filing an undertaking within a period of eight weeks that she would make the said amount good, if directed at the time of final disposal of the appeal.

4. Civil Application stands disposed of accordingly.

(SMT. VIBHA KANKANWADI, J.)

SCM