

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

117 CIVIL APPLICATION NO.12720 OF 2019
IN FA/813/2018

ASHIYABEE W/O SAYED JAMAL @ JAMADAR AND ANR
VERSUS
UNITED INDIA INSURANCE CO. LTD., AND ORS

...
Advocate for Applicants : Mr. Jadhav Hanumant P.
Advocate for Respondent No.1 : Mr. S. G. Chapalgaonkar
...

CORAM : MANGESH S. PATIL, J.

DATE : 08.11.2019

PER COURT :-

The applicants are the widow and mother of the deceased, who have been found entitled to claim compensation are seeking withdrawal of the compensation deposited by the Insurance Company while preferring this appeal.

2. Learned advocate for the Insurance Company submits that in fact it is a peculiar case wherein it is the stand of the Insurance Company that the policy in question has been obtained/brought into effect by practicing fraud and by indulging in forgery. He submits that the CBI has been investigating the matter. Written statement was amended accordingly but because of some communication gap between it and its advocate before the Tribunal, no evidence could be led in that respect. It is now

seeking remand.

3. It does appear that the Insurance Company has been disputing its liability on the ground that there was in fact no contract of insurance and the policies were generated fraudulently. It is also apparent that it had failed to substantiate its defence by leading evidence. However, that would be the aspect to be considered while deciding the appeal.

4. Fact remains that it is not the case of the Insurance Company that the applicants had indulged in that fraud. In view of such state of affairs, the applicants are allowed to withdraw the total amount of Rs.7,00,000/- (Rs. Seven lakhs). Applicant shall be paid amount in proportion of 75% and 25% respectively subject to furnishing an undertaking that they shall deposit the amount as per the direction of this Court in case the appeal is allowed and on furnishing a solvent security to that extent.

5. Civil Application is accordingly disposed of.

(MANGESH S. PATIL, J.)

vsm/-