

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

116 CIVIL APPLICATION NO.12718 OF 2019
IN FAST/7673/2019

DAMU JIJABA NEHE AND ANR
VERSUS
THE MANAGER, HDFC ERGO GENERAL INSURANCE CO. LTD., AND
ORS

...
Advocate for Applicants : Mr. Shermale K. N.
Advocate for Respondent No.1 : Mr. S. G. Chapalgaonkar
...

CORAM : MANGESH S. PATIL, J.

DATE : 08.11.2019

PER COURT :-

This is an application filed by the original claimants for withdrawal of the amount of compensation deposited by the respondent No.1- Insurance Company pursuant to the award.

2. Deceased was the son of the applicants. The Tribunal has awarded almost Rs.17,00,000/- with interest. He was a boy, aged 31 years. The Tribunal has assessed his earning to be Rs.12,000/- per month and has added future prospects at the rate of 40% while determining loss of dependency.

3. Learned advocate for the respondent-Insurance Company

submits that there is a serious dispute as regards the quantum arrived at by the Tribunal. There was no sufficient evidence to substantiate income of the deceased and therefore, serious prejudice would be caused to the Insurance Company if the entire amount is allowed to be withdrawn.

4. Considering the above conspectus, the applicants deserve to be allowed to withdraw 75% of the amount of compensation deposited in this Court. In order to avoid calculation, they are allowed to withdraw Rs.16,00,000/- (Rs. Sixteen lakhs) subject to furnishing an undertaking that they shall refund the amount as per the directions of this Court in case the appeal is allowed.

5. Civil application is accordingly dispose of.

(MANGESH S. PATIL, J.)

vsm/-