

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

122 CIVIL APPLICATION NO.12784 OF 2019
IN FA/798/2019 WITH CA/3595/2019 IN FA/798/2019

MANDAKINI YUVRAJ LOMATE AND ORS
VERSUS
THE UNITED INDIA ASSURANCE CO. LTD., THR ITS
ADMINISTRATIVE OFFICER, (TP HUB), AU

...
Advocate for Applicants : Mr. Deshmukh Vivekanand B.
Advocate for Respondent No.1 : Mr. S. S. Rathi
...

CORAM : MANGESH S. PATIL, J.

DATE : 08.11.2019

PER COURT :-

The applicants, who are original claimants, are seeking withdrawal of amount of compensation deposited by the respondent-Insurance Company pursuant to the impugned award.

2. Learned advocate for the respondent-Insurance Company vehemently submits that since it was only an act only policy and the deceased was the pillion rider, who could not be treated as a third party, there was no policy at all to cover the risk of the deceased, still the Tribunal discarded this argument and has directed to indemnify the owner.

3. Considering the above aspects, apparently the deceased

was the pillion rider and only the insurer and insured of the vehicle of which he was riding pillion being made respondents in the original claim, there is indeed serious dispute as to the liability of the Insurance Company to pay the amount of compensation which will have to be gone into in the first appeal. However, taking some sympathetic view, applicants being the widow and children of the deceased, in my considered view they deserve to be allowed to withdraw amount of Rs.2,00,000/- (Rs. Two lakhs) subject to furnishing an undertaking that they shall deposit the amount as per the direction of the Court in case the appeal is allowed.

4. Civil application is accordingly disposed of.

(MANGESH S. PATIL, J.)

vsm/-