

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

**28 CIVIL APPLICATION NO.12917 OF 2019
IN FA/1730/2014**

**BAPURAO LALBAJI SHELGAKAR AND ANR
VERSUS
THE UNITED INDIA INSURANCE CO. LTD. THRU ITS AUTHORIZED
SIGNATORY, AURANGABAD**

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Advocate for Applicants : Mr. Y. K. Delmade, h/f Mr. Shinde Ganesh P
Advocate for Respondents : Mr. Vinodkumar R. Mundada.

CORAM : MANGESH S. PATIL, J.

DATE : 05/12/2019

PER COURT :

Heard.

2. The original claimants No. 1 and 2 who are the parents of the deceased and have been held to be entitled to claim Rs. 2,00,000/- each by the Tribunal are now seeking withdrawal of the amount deposited by the Insurance Company while preferring the appeal.

3 The learned advocate for the applicants/claimants submits that even the wife and the daughter of the deceased were the co-claimants and they have been allowed to withdraw 50% of the amount deposited in this Court by the order dated 16.10.2015. The applicants are age old parents of the deceased and even now they are in need of money. The appeal is pending since the year 2014. The respondent No. 5-owner of vehicle is yet

to be served.

4. The learned advocate for the appellant/Insurance Company opposes the application. He submits that but for service to the respondent No. 5 he is ready to argue the matter. It has been coming with a defence of breach of policy and even the quantum of compensation assessed by the Tribunal is on higher side.

5. Taking into account the fact that though the appeal has been filed in the year 2014 the respondent No. 5 is yet to be served, the applicants cannot be deprived of from receiving the benefits of the impugned award. Assuming that there was a breach terms and conditions of policy a direction of pay and recover could be there.

6 Considering the aforementioned facts and circumstances each of these applicants are allowed to withdraw Rs. 1,00,000/- by furnishing undertaking in usual terms.

7. The Civil Application is disposed of.

(MANGESH S. PATIL, J.)

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