

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

**27 CIVIL APPLICATION NO.13354 OF 2019
IN FA/1825/2019**

**YASMIN YUNUS PATHAN AND ORS
VERSUS
THE NEW INDIA ASSURANCE CO. LTD., THR ITS MANAGER AND
ORS**

...
Advocate for Applicants : Mr. Gore Ravindra Vitthal
Advocate for Respondent no.1 : Mr. M. M. Ambhore
...

CORAM : MANGESH S. PATIL, J.

DATE : 20.11.2019

PER COURT :

Heard both the sides, the original claimants are seeking to withdraw the amount of compensation deposited by the insurance company while preferring the appeal.

2. The learned advocate for the insurance company strongly opposes the application. He submits that in fact, the deceased was driving a jeep and had dashed a stationary truck from behind which was parked by the side of the road and still the Tribunal has not considered the contribution. The learned advocate would further submit that even there is a dispute as regards validity of the driving licence of the driver of the truck. Therefore the applicants may not be

allowed to withdraw the entire amount of compensation.

3. The learned advocate for the applicants/claimants points out that the tribunal has erred in assessing the compensation. Though the deceased was a driver future prospects have not been taken into consideration and therefore at list 75% of the amount may be allowed to be withdrawn.

4. Considering the fact that some of the applicants are still minor, nothing can be allowed to be withdrawn to their extent.

5. So far as the other applicants who are major, considering the aforementioned facts and circumstances, it would be appropriate to allow them to withdraw 75% of the amount to which they have been found entitled to by the tribunal, by furnishing usual undertaking.

6. Application is allowed. The applicant nos. 1, 4 and 5 are allowed to withdraw 75% of the amount to which they have been found entitled to receive by the tribunal, by furnishing undertaking in usual terms. The application is disposed of.

(MANGESH S. PATIL, J.)