IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

56 CIVIL APPLICATION NO.14038 OF 2019
IN FA/3068/2019

PUSHPA VITTHAL SHINDE AND ORS
VERSUS
NATIONAL INSURANCE CO. LTD., THR ITS DIV. MANAGER, AURANGABAD AND ANR
...
Advocate for Applicants : Dhananjay Mane h/f Bharat Pankaj A.
Adv. S. R. Bodade For R/1

...

CORAM : MANGESH S. PATIL, J.
DATE : 04.12.2019

P.C. :-

Heard. Both sides.

2] The learned advocate for insurance company opposes the application by the claimant for withdrawal of the amount. The learned advocate submits that the vehicle has been involved belatedly, after 3 months of the accident. There is collusion between the driver and the owner of the vehicle and the claimants and therefore, the claimants may not be allowed to withdraw the amount of compensation. The learned advocate for the appellant insurance company also submits that the compensation assessed by the Tribunal is also on exorbitant side, in the absence of any concrete evidence about income of the deceased.

3] As can be seen from the impugned judgment, the appellant in its written statement apparently has not come out with any such stand which is now being taken for the first time before this Court. There are apparently no contentions regarding any collision or false involvement.

4] Further apparently the compensation has also been assessed *prima facie* in accordance with the decision in the case of Sarla Varma (Smt) & Ors V/s Delhi Transport Corporation and Anr.; (2009) 6 SCC 121 and National Insurance Co. Ltd. V/s Pranay Sethi and ors; (2017) 16 SCC 680.

5] Considering the aforementioned facts circumstances, except the applicant no.4 who is still a minor, rest of the applicants can be allowed to withdraw 75% of the amount to which they have been found entitled to by the Tribunal.

6] The application is allowed. The applicants nos.1 to 3 and 6 are allowed to withdraw 75% of the amount of compensation on furnishing usual undertaking.

[MANGESH S. PATIL, J.]

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