

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

**947 CIVIL APPLICATION NO.1773 OF 2019
IN FAST/15069/2018**

**MAMTA MAHENDRA SONAWANE AND ORS
VERSUS
CHOLAMANDALAM INSURANCE CO. LTD., CHENNAI AND ORS**

...
Advocate for Applicants : Shri Kishor C.Sant
Advocate for Respondent No.1 : Shri S.G.Chapalgoankar...

...
CORAM : P.R.BORA, J.

DATE: 31st January, 2019

PER COURT:-

1 Heard Shri K.C.Sant, learned Counsel appearing for the applicants and Shri S.G.Chapalgoankar, learned Counsel appearing for the respondent Insurance Company.

2 It is brought to my notice that total three vehicles were involved in the alleged accident and the present petition was filed by the legal heirs of the deceased driver of Omni Car, which was involved in the alleged accident. The liability has been saddled jointly and severally on the owners and insurers of other two vehicles involved in the alleged accident. The learned Counsel submitted that though, in the body of Judgment, the Tribunal has observed that the alleged accident had occurred because of equal negligence on part of drivers of both the offending vehicles, however, the same has not been reflected in the operative part of the Judgment and award. The learned Counsel, in the circumstances, prayed for holding the another Insurance Company equally liable to pay 50% amount of the

compensation.

3 The learned Counsel further submitted that the Tribunal has awarded a sum of Rs.1,40,000/- towards non-pecuniary damages and the order to that extent may not be sustained and needs to be modified. In the circumstances, the learned Counsel prayed for passing appropriate orders.

4 In view of submissions so made, the following order is passed:-

ORDER

I) The applicants are permitted to withdraw a sum of Rs.8,00,000/- (Rs.Eight lakhs only) from the deposited amount alongwith interest accrued thereon, on submitting an undertaking to the satisfaction of the Registrar (Judicial) of this Court.

II) Balance amount be invested in Fixed Deposit Receipt in any Nationalized Bank for the period till disposal of the appeal.

III) Application for withdrawal of amount stands disposed of.

(P.R.BORA)
JUDGE

SPT