

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 2940 OF 2017
IN
FIRST APPEAL (ST.) NO. 18642 OF 2015**

Sarjerao Shankar Mandavkar & Anr.	...	Applicants
<u>In the matter between</u>		
New India Assurance Co. Ltd.	...	Appellant
V/s.		
Sarjerao Shankar Mandavkar & Ors.	...	Respondents

- Mr. Jayant J. Bardeskar for the Applicants - Org. Respondent Nos.1 and 2.
- Mr. Uday G. Badadare i/b. Mr. Misar for the Appellant.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 21st JANUARY, 2019.

P.C. :

- 1] Heard learned counsel for both the parties.
- 2] This application is preferred by the Applicants-Claimants seeking withdrawal of the entire amount of compensation.
- 3] Learned counsel for the Appellant-Insurance Company raises objection to withdrawal of the entire amount on the ground that the notice to Respondent No.3 i.e. the owner of the vehicle is yet not received. So also it is submitted that the appeal is on the ground of negligence of the driver of the offending vehicle. In view thereof, the

Applicants cannot be permitted to withdraw the entire amount of compensation.

4] However, considering the requirements of the Applicants-Claimants, who are the parents of the deceased, the Applicants-Claimants are permitted to withdraw 50% amount of compensation, subject to furnishing of usual undertaking.

5] The Civil Application is disposed off in above terms.

[DR.SHALINI PHANSALKAR-JOSHI, J.]