

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 CIVIL APPLICATION NO. 2502 OF 2020 IN FA/
280/2020

LAXMI W/O MAHADEO NAKKALWAR (TELANG) AND ORS
VERSUS
HDFC GENERAL INSURANCE CO. LTD., THR ITS
AUTHORIZED SIGNATORY, AURANGABAD

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Mr.S.D. Munde, Advocate for the applicants.
Mr.S.S. Dargad h/f Mr.S.G. Chapalgaonkar,
Advocate for respondent.

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CORAM: V.L. ACHLIYA,J.
DATE : 26.02.2020

ORAL ORDER:

The applicants-claimants moved this application seeking withdrawal of amount deposited by appellant – insurance company for the reasons set out in detail in the application.

2. Heard learned counsel for the applicants – claimants and learned counsel representing the respondent.

3. Learned counsel for the appellant-insurance company opposed the application with contention that the appellant has good case to succeed on merits. It is submitted that there has no negligence on the part of

driver of the truck in causing accident and the death of deceased. As per the evidence on record, the deceased was sitting below the truck, which was standing in queue for weighing the vehicle loaded with sugar cane to upload the same in the sugar factory. It is submitted that in absence of any negligence on the part of the driver of the truck and deceased himself responsible for the death, no compensation to be payable by the appellant – insurance company. It is further submitted that the Tribunal has awarded Rs.2,30,000/- towards non-pecuniary head in complete defiance to the directives contained in the judgment of the Hon'ble Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi & Ors** reported in (2017) 16 SCC 680.

4. On due consideration of submissions advanced, I am of the view that the following order would meet the ends of justice :-

ORDER

(i) The applicant no.1 is permitted to withdraw the amount of Rs.3,00,000/- deposited by the appellant-insurance company on furnishing the written undertaking that in the event award is set aside or modified, the

applicant no.1 shall refund the amount within four weeks from the date of passing of order.

(ii) After making payment of Rs.3,00,000/-, the balance amount be invested in equal proportionate in the names of applicant nos.1 to 5 with any Nationalized Bank initially for a period of two years with standing instructions to renew the same till further orders from the Court.

(iii) The interest accrued over the amount invested in the names of applicants be directly credited in the Saving Account of applicant no.1 after every three months so as to enable the applicant no.1 to maintain herself as well as maintain applicant nos.2 to 5.

(iv) The order of withdrawal of amount and payment of interest shall be subject to final outcome of the Appeal.

(v) The Civil Application is disposed of in above terms.

[V.L. ACHLIYA]
JUDGE