

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 6466 OF 2020
IN
FIRST APPEAL NO. 1128 OF 2020

SAYABAI VITHOBA DALVI AND OTHERS
VERSUS
THE NEW INDIA ASSURANCE CO. LTD. AND OTHERS

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Advocate for the applicant: Mr. P.C. Mayure
Advocate for respondent No.1: Mr. S.S. Dargad h/f Mr. S.G.
Chapalgaonkar
Advocate for respondent No.3: Mr. V.Y. Patil
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CORAM : V. K. JADHAV, J.
DATED : 16th OCTOBER, 2020

PER COURT:-

1. Heard both sides.
2. The respondent No.1-insurer has deposited the amount of Rs.9,00,000/- (Rupees Nine lacs) before this Court in response to the award passed by the Tribunal. The applicants-original claimants have filed this civil application for withdrawal of the said amount. Learned counsel for the respondent-insurer has strongly resisted the application on the ground that the respondent-insurer has challenged the award passed by the Tribunal on two grounds. Firstly on the ground of negligence since two vehicles are involved in the accident and secondly on quantum. Learned counsel for the respondent-insurer submits that bachelor son applicant Nos. 1 and 2 met with an accident and died and in view of the same, $\frac{1}{2}$ (half) of the amount

towards personal expenses are required to be deducted, however, the Tribunal has deducted 1/3rd (one third) of the amount towards personal expenses.

3. Learned counsel for the applicants-original claimants submits that applicant Nos. 1 and 2 are parents and applicant Nos. 3 and 4 are younger brothers of deceased and they are still taking education. The deceased son was earning member of the family.

4. In view of above and considering the submissions of the both sides, the applicants-original claimants are permitted to withdraw an amount of Rs.4,50,000/- (Four lacs fifty thousand) on furnishing undertaking to the satisfaction of the Registrar (Judicial) of this Court. The undertaking shall be furnished by applicant No.1 Sayabai w/o Vithoba Dalvi on behalf of all applicants-original claimants and office to transfer the amount of Rs.4,50,000/- (Rupees Four lacs fifty thousand only) in the bank account of applicant No.1 Sayabai w/o Vithoba Dalvi for herself and for all applicants-claimants.

5. Civil application is accordingly disposed of.

(V. K. JADHAV, J.)

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