

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

921 CIVIL APPLICATION NO.11415 OF 2019
IN FA/1824/2019

MEERABAI SOMNATH KUMBHAR AND ORS
VERSUS
THE NEW INDIA ASSURANCE CO. LTD.,
THR ITS AUTHORIZED SIGNATORY,
AURANGABAD AND ORS.

...
Mr.P.V.Ambade, Advocate for
applicants.
Mr.M.M.Ambhore, Advocate for R-1.
Mr. D.P.Sakhare, Advocate for R-2 3.

...
CORAM : V.L. ACHLIYA, J.
DATE : 05/02/2020
...

ORAL ORDER:

1. The applicants/claimants have moved this application seeking withdrawal of amount of Rs. 18,23,559/- deposited by the appellant.
2. Heard learned counsel for applicants and respondent/insurance company. Perused the Judgment and Award passed by Tribunal.
3. In brief, it is the contention of appellants that appellants have good case to succeed in appeal. It is submitted that the deceased was holding valid licence. He was found to be holding licence for non

transport. It is further submitted that the compensation awarded is also meagre and not in accordance with law.

4. On the other hand learned counsel for applicants support the Judgment and Award and referred and relied upon the decision of Apex Court in the case of ***National Insurance Company Ltd. V/s Pranay Sethi and others reported in AIR 2017 (S.C.) 5157.*** It is submitted that appellants have no case to succeed in appeal. It is submitted that the appellate Court has held in clear terms that no separate endorsement is required to drive light motor vehicle if used for transportation purpose. It is further submitted that the Award is in accordance with the broad guide lines recorded by Apex Court in the case of ***Smt.Sarla Varma and others V/s Delhi Transport Corporation and another reported in 2009 (2) T.A.C. 677 (S.C.).***

5. On due consideration of submissions advanced, I am of the view the following order would meet the ends of justice.

ORDER

[i] Out of the amount of Rs. 18,23,559/- the

applicant No. 1 be allowed to withdraw Rs. 2 Lakhs and applicant No. 5 allowed to withdraw Rs. 1 Lakh on furnishing written undertaking that in case the Award is set aside or modified they will deposit the amount as directed within four weeks from the date of passing of such order.

[ii] After making the payment to applicant Nos. 1 and 5, the balance amount be invested in any nationalized bank initially for the period of two years with standing instructions till further orders from the Court. The interest accrued on said amount be regularly paid to applicant No. 1 after every three months by transferring the amount in her savings account for her own maintenance as well as for maintenance of applicant Nos. 2 to 5.

[iii] Withdrawal of amount and payment of interest shall be out-come of final disposal of appeal.

6. Civil Application disposed of in above terms.

[V.L.ACHLIYA]

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JUDGE

KNP