

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

**CIVIL APPLICATION NO. 4638 OF 2021
IN
FIRST APPEAL (ST) NO. 2903 OF 2020**

Ganpati s/o Nivrutti Gaikwad & Anr.

...Applicant

Versus

The Branch Manager,
Bajaj Allianz General Insurance Co. Ltd. & Ors.

...Respondents

.....
Shri. Ram S. Shinde, Advocate for the applicant
Shri. S. G. Chapalgaonkar, Advocate for respondent no. 1
.....

**CORAM : R. G. AVACHAT, J.
DATE : 26th JULY, 2021**

PER COURT : -

1. Heard the learned Counsel for the respective parties.
2. The learned Counsel for the respondent-Insurance Company objects to withdrawal of the 75% of the amount deposited in this Court, on the ground that the deceased was not wearing a helmet. Moreover, its a case of contributory negligence. Award has also been challenged on quantum.
3. According to the learned Counsel for the applicant, the truck involved in the accident dashed the motorcycle from behind.

4. The deceased had just passed out MBBS. The Tribunal considered his notional income at Rs. 50,000/- and awarded the compensation.

5. Considering the impugned award and the averments in the application, the applicants are permitted to withdraw 50% of the amount deposited in this Court, on furnishing usual undertaking to the satisfaction of the learned Registrar (Judicial) of this Court. The applicants are also allowed to withdraw 25% of the amount deposited in this Court, on submitting solvent surety / security in the like amount. The balance amount be invested in Fixed Deposit in any nationalized bank, till the disposal of the appeal.

6. Civil Application No. 4638 of 2021 for withdrawal of the amount, is accordingly disposed of.

[R. G. AVACHAT]
JUDGE