

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

913 CIVIL APPLICATION NO. 540 OF 2020
IN FAST/38456/2019

HIRABAI NAMDEV DUKRE AND ANOTHER
VERSUS
NEW INDIA ASSURANCE CO. LTD., THROUGH ITS BRANCH
MANAGER, AHMEDNAGAR AND ANOTHER

Advocate for Applicants : Mr. Sachin Deshmukh
h/f. Mr. Shaikh Majit S And Mr. Y.K. Shaikh
Advocate for Respondent No. 1 : Mr. S.G. Chapalgaonkar.

**CORAM : SHRIKANT D. KULKARNI, J.
DATED : 01.07.2021**

PER COURT :

It is an application for withdrawal of amount moved by the applicants / original claimants.

2. Heard Mr. Deshmukh, learned Advocate for the applicants and Mr. Chapalgaonkar, learned Advocate for respondent No. 1 / Insurance Company. Perused the impugned judgment and award passed in MACP No. 239/2015 by the Member, of Motor Accident Claims Tribunal, Shrirampur.

3. Mr. Chapalgaonkar, learned Advocate for the respondent No. 1 submits that after five days of the accident, false involvement of the vehicle is shown in the accident in question. He also invited my

attention to the other aspects which go to the root of the matter according to him. He submits that the applicants may be allowed to withdraw 50% of the amount deposited by the Insurance Company on usual undertaking.

4. On the other hand Mr. Deshmukh, learned Advocate for the applicants / original claimants invited my attention to the impugned judgment more particularly para No. 11 and points out that already 15% amount has been deducted towards contributory negligence. He submits that applicant No. 2 has now become major and she is taking education. The applicants are in need of money due to Covid 2019 pandemic.

5. The points raised by Mr. Chapalgaonkar, would be certainly taken into consideration at the time of final hearing of the appeal and that exercise would be definitely done. The question is about withdraw of amount deposited by the Insurance Company. There is no dispute that applicant No. 2 was minor and now she has become major. She is taking education and she needs money for further education as well as day to day activities. Having regard to the genuine need of applicant No. 2 as well as applicant No. 1 in view of Covid 2019 pandemic, I am of the view that applicants need to withdraw 75% of the amount deposited by the Insurance Company,

however on certain conditions which would take care of apprehension raised by the learned Advocate for Insurance Company. With this I conclude and proceed to pass the following order :

ORDER

- i. The application for withdrawal of amount moved by the applicants is hereby allowed.
- ii. The applicant Nos. 1 and 2 are hereby permitted to withdraw 50% of the amount with accrued interest deposited by respondent No. 1 / Insurance Company on usual undertaking with the Registry.
- iii. They are further permitted to withdraw 25% of the amount with accrued interest deposited by respondent No. 1 / Insurance Company on furnishing solvent surety of the like amount and undertaking to the satisfaction of the Registrar (Judicial) of this Court.
- iv. The Civil Application stands disposed of, accordingly.

(SHRIKANT D. KULKARNI, J.)