

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

**CIVIL APPLICATION NO. 2718 OF 2021
IN
FIRST APPEAL NO. 2324 OF 2020**

Varsha wd/o Nitin Bhagat and others ... Applicants

Versus

Sandip Gorakshnath Hulmukhe and another ... Respondents

....

Mr. Amol S. Gandhi, Advocate for the applicants

Mr. S. S. Dargad, Advocate h/f Mr. S. G. Chapalgaonkar, Advocate for
respondent No.2

....

CORAM : R. G. AVACHAT, J.

DATED : 08th MARCH, 2021

PER COURT :-

. Heard.

2. This is an application for withdrawal of the amount of compensation deposited in this Court pursuant to the award dated 28.02.2020 passed in M.A.C.P. No.127 of 2017.

3. The applicants are the Class-I heirs/legal representatives of deceased Nitin Bhagat. Nitin died in the accident involved in motor vehicles on 17.02.2017. It was an accident involving two motorcycles. The deceased was riding one of the two motorcycles

involved in the accident. The Tribunal held the deceased to be tributary negligent, percentage whereof is stated to be 20%.

4. The respondent No.2 – insurance company (Appellant) objects, mainly on the ground of there being five days delay in reporting about the accident. According to the learned Advocate for the insurance company, the vehicle to which it had granted insurance company cover has been falsely implicated/planted in this case.

5. I have perused the impugned award to find that the motorcycle rider on the offending vehicle had himself rushed the deceased to the hospital. There is mentioned thereof in medical papers. The Investigating Officer found involvement of the motorcycle bearing MH-16-BR-7515.

6. It appears that the deceased was sole breadwinner of the family. In the facts and circumstances of the case, I am inclined to permit the applicants to withdraw 40% of the amount deposited in this Court. The amount be paid to the applicants as per apportionment made in clause (4) of the award.

7. The applicants to furnish necessary undertaking to the satisfaction of the Registrar (Judicial) of this Court. The amount payable to the applicant Nos.2 and 3 be paid to applicant No.1 on her furnishing undertaking on their behalf.

8. Civil application is disposed of.

[R. G. AVACHAT, J.]

SMS