

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

**5 CIVIL APPLICATION NO.4331 OF 2021
IN FAST/41003/2019**

YASMIN ASHPAK NAIKWADI AND ORS.

VERSUS

NEW INDIA ASSURANCE CO. LTD., THR ITS AUTHORIZED
SIGNATORY, AURANGABAD AND ANOTHER

Advocate for Applicants : Mr.P.S.Chavan

Advocate for Respondent No.1 : Mr.A.B.Kadethankar

CORAM : M.G.SEWLIKAR, J.

DATE: 1st April, 2021

PER COURT:-

1. Heard.
2. Mr.A.B.Kadethankar, learned counsel for the respondent No.1 states that the appeal is filed challenging the involvement of the vehicle in the accident. He submitted that there is delay in lodging the First Information Report (FIR) and in the FIR it was alleged that dash was given by an unknown vehicle. Number of the vehicle was also not mentioned in the FIR. Though, charge-sheet is filed, there is no evidence to even *prima-facie* prove that the vehicle insured by the applicants was involved in the accident. Therefore, he submitted that respondent No.1-appellant has a very good chance of succeeding in appeal.
3. Mr.P.S.Chavan, learned counsel for the applicants submits that eye-witnesses have been examined for proving the

involvement of the vehicle. On the basis of this evidence, the learned Tribunal awarded the amount of compensation.

4. Having regard to this, I am inclined to allow the applicants to withdraw Rs.9,50,000/- (Rs.Nine lacs fifty thousand only) alongwith interest.

5. Mr.Chavan, learned counsel for the applicants submits that entire amount be transferred to the Tribunal. In view of this, following order is passed:

ORDER

I) Application is allowed.

II) Applicants are allowed to withdraw the amount of compensation to the tune of Rs.9,50,000/- (Rs.Nine lacs fifty thousand only) alongwith interest. The amount shall be disbursed to the applicants in terms of the disbursement made by the learned Tribunal.

III) The amount of compensation deposited by the appellant be transferred to the Motor Accident Claims Tribunal, Osmanabad.

IV) The amount shall be disbursed on the undertaking that if the respondent No.1-appellant succeeds in the appeal, the applicants will deposit the entire amount at once.

V) Remaining amount after disbursement be deposited in Fixed Deposit in any Nationalized bank of the choice of the applicants.

(M.G.SEWLIKAR)
JUDGE