

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 CIVIL APPLICATION NO.4395 OF 2021
IN FA/743/2021

SUBHASH GORAKH PAWAR AND ANR.

VERSUS

THE NATIONAL INSURANCE CO. LTDL, DIVISIONAL OFFICE AND ANOTHER

...

Mr. D.R. Jaybhar, Advocate for applicants

Mr. M.M. Ambhore, Advocate for the respondent No.1

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 23rd JUNE, 2021.

PER COURT :

1 Heard both sides.

2 The learned Advocate for the insurance company submits that the Award that has been passed by the learned Tribunal has been challenged on the point of quantum, as the Tribunal has assessed the compensation on very much higher side. Thereafter, the other non pecuniary damages have also been assessed on higher side. Further, as regards statutory defence is concerned, it is the say of the insurance company that the driver was not holding valid and effective driving licence on the date of the accident.

3 As regards the second objection is concerned, at the most that
would give rise to 'pay and recover' order. Further, as regards the quantum is
concerned, it may be assessed, but there is no hurdle in allowing partial
withdrawal, since it is the injury claim. The amount, that has been deposited
in this Court, is Rs.34,71,930/- apart from the statutory amount. Therefore,
the applicant is allowed to withdraw amount of Rs.15,00,000/-.

4 The said amount be transmitted to Motor Accident Claims
Tribunal, Ahmednagar for its disbursement, as the claimant is from that place
and it would be convenient for the claimant to withdraw the amount from
the nearby Tribunal.

5 Tribunal to give compliance report to this Court after the amount
is disbursed.

6 Civil Application stands disposed of accordingly.

(Smt. Vibha Kankanwadi, J.)

agd