

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

937 CIVIL APPLICATION NO.3769 OF 2021
IN FA/2327/2020

BHAGYASHRI TANAJI KAPSE AND ORS

VERSUS

BRANCH MANAGER, IFFCO TOKIO GENERAL INSURANCE CO. LTD. LATUR
AND ANOTHER

...

Mr. S.B. Choudhari, Advocate for applicants

Mr. S.G. Chapalgaonkar, Advocate for the respondent No.1

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 15th JUNE, 2021.

PER COURT :

1 Present application has been filed for withdrawal of the amount.
Amount of Rs.11,48,909/- has been deposited in this Court by appellant-
IFFCO TOKYO General Insurance Company Limited on 16.12.2020.

2 Heard learned Advocates of both sides.

3 The application has been objected by the learned Advocate for
the insurance company on the ground that the defence, that was taken, was
that the accident took place due to the negligence of an unknown vehicle but

the driver of the motorcycle, on which the deceased was travelling as pillion rider, had held responsible. The insurance company had led evidence to show as to how the unknown vehicle was negligent.

4 At this stage, a competent Court has come to the conclusion that the accident had occurred due to the negligence on the part of the original respondent No.1 i.e. the driver of the motorcycle. The said motorcycle was admittedly insured with the appellant. Under such circumstance, there is no hurdle for allowing partial withdrawal. Each applicant is allowed to withdraw amount of Rs.1,00,000/-.

5 Applicants shall file an undertaking within a period of eight weeks that they would make the said amount good, if directed, at the time of final disposal of the appeal.

6 Application stands disposed of accordingly.

(Smt. Vibha Kankanwadi, J.)

agd