

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

940 CIVIL APPLICATION NO.4707 OF 2021
IN FA/17/2021

SUNITA KISAN KARALE AND OTHERS
VERSUS
ORIENTAL INSURANCE COMPANY LTD., AND OTHERS

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Mr. R.S. Jasar, Advocate for applicants
Mr. U.S. Malte, Advocate for the respondent No.1

...

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.25,44,371/- has been deposited in this Court by appellant-
Oriental Insurance Company Limited on 23.02.2021.

2 Heard learned Advocates of both sides.

3 Learned Advocate for respondent No.1 has strong objection on
the ground that the defence was two folds, one is breach of condition and
another is contributory negligence. As regards breach of condition is
concerned, it would be at the most and pay and recover, for which the

claimants will not be in picture and as regards contributory negligence is concerned, there appears to be no positive evidence that has been led by the insurance company. Therefore, there is no hurdle in allowing partial withdrawal.

4 Applicant No.1 is allowed to withdraw amount of Rs.10,00,000/-. Applicant Nos.3 and 4, in view of the fact that the Tribunal itself had granted amount of Rs.1,00,000/-, each of them, that is, towards their share out of the entire compensation amount, they are allowed to withdraw that much amount. It is clarified that from rest of the amount as per the Judgment, the applicant/original petitioner Nos.3 and 4 are not entitled to get more than the amount which is now allowed to be withdrawn by them.

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.)