

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

**CIVIL APPLICATION NO.5955 OF 2021 IN
FIRST APPEAL NO. 119 OF 2021**

Deepali w/o Sandip Patil & ors. ... **APPLICANTS**

VERSUS

National insurance Company Ltd. & anr. ... **RESPONDENTS**

.....
Mr. S.B. Choudhari, Advocate for applicants
Mr. A.B. Gatne, Advocate for respondent No.1.
Mr. Manoj Shinde, Advocate holding for
Mr. S.J. Salgare, Advocate for respondent No.2.
.....

CORAM : R. G. AVACHAT, J.

DATE : 11th AUGUST, 2021

PER COURT :

Heard learned counsel for the parties. It is a death claim. According to learned counsel for the appellant-Insurance Company, the deceased gave statement to the police that he was running a grocery shop, whereas it is the case of the appellant before the Tribunal that the deceased was driver by profession. His driving licence was produced in evidence. As such, according to the appellant- Insurance Company, it is the question of quantum of compensation

awarded by the Tribunal. Moreover, the driver of the offending vehicle did not have a licence to drive. He invited attention of this Court to a photocopy of the licence and another copy placed on record by him to indicate that there is substance in his contention. Learned counsel for the appellant- Insurance Company, however, concedes to the position of law as regards 'pay and recover' in case of a driver did not have a driving licence at the relevant time.

2. The interest of appellant- Insurance Company can be secured if the applicants are directed to furnish solvent security as against the amount that would be permitted to be withdrawn by them. In view of the same, the applicants are permitted to withdraw 70% of the amount deposited in this Court on furnishing solvent security/ surety to the satisfaction of the Registrar (Judicial) of this Court.

3. Civil Application is disposed of.

4. List the appeal on 25th August 2021.

(R. G. AVACHAT)
JUDGE

fmp/-