

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 CIVIL APPLICATION NO.5556 OF 2021
IN FA/2190/2020

DWARKA NARAYAN RAUT AND ORS
VERSUS
AKSHAY KISHORCHAND PAGARIYA AND OTHERS

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Mr. M.R. Deshmukh, Advocate for applicants
Mr. R.H. Dahat, Advocate for the respondent No.3

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 23rd JUNE, 2021.

PER COURT :

1 Heard both sides.

2 Learned Advocate for the insurance company-appellant submits that the appeal is mainly on the ground of false involvement of the vehicle insured with it, that too, at a belated stage and also on the point of quantum.

3 At this stage, a competent Tribunal has assessed the evidence, that was led before it, and therefore, there is no hurdle in partial withdrawal. The claimants were held to be entitled to get amount of Rs.7,70,00/- inclusive of amount of No Fault Liability. The No Fault Liability was also

received and therefore the apportionment of Rs.7,20,000/- has been made. One son and one daughter of the deceased have been granted compensation of Rs.1,10,000/- each with interest and proportionate costs of petition. An amount of Rs.10,75,512/- is deposited towards decretal award.

4 It appears that now the applicant Nos.2 and 3 have attained the majority and therefore, the applicants are directed to produce on record the birth certificates of applicant Nos.2 and 3.

5 From the Award what can be seen is that claimant Nos.2 and 3, who are son and daughter of the deceased, were still considered as minors on the date of the Award by the learned Tribunal, though it appears that they had attained the majority during the pendency of the petition itself and then the apportionment and deposit order has been passed, taking into consideration their minority. However, now, since they had attained the majority, though amount of Rs.1,10,000/- each has been granted to them apart from the interest, taking into consideration the amount deposited, challenge to the Award, they are allowed to withdraw amount of Rs.75,000/- each. Further, as regards the applicant No.1 is concerned, an amount that was apportioned to her is Rs.5,00,000/- with interest. Now, taking into consideration the amount that has been deposited, she is permitted to withdraw an amount of Rs.4,00,000/-.

6 The said amount be transmitted to Motor Accident Claims Tribunal, Beed for its disbursement, as the claimants are from that place and it would be convenient for the claimants to withdraw the amount from the nearby Tribunal.

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

8 Civil Application stands disposed of accordingly.

(Smt. Vibha Kankanwadi, J.)

agd