

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

CIVIL APPLICATION NO.6126 OF 2021
IN
FA/222/2021 WITH CA/2299/2021 IN FA/222/2021

TABASSUM BEGAM W/O WASHED ANVAR SHAIKH AND ORS.
VERSUS
NATIONAL INSURANCE CO. LTD.,
THROUGH ITS BRANCH MANAGER, LATUR AND OTHERS

Mr.R.S.Shinde, Advocate for applicants
Mr.M.M.Ambhore, Advocate for respondent no.1

**CORAM : R.G. AVACHAT, J.
DATE : JULY 14, 2021**

ORDER :-

Heard learned counsel for the parties. Perused the impugned award.

2. Learned counsel for the respondent-insurance company submits that a private vehicle was being used for hire. The same constitutes breach of the terms and conditions of the policy of insurance.

3. Learned counsel for the applicant would, on the other hand, submits that in such a breach, if proved, the order of pay and recover may be passed. The deceased was a truck driver, drawing

salary of Rs.12,000/- per month besides of daily allowance, etc. According to him, even without preferring an appeal, the Court can enhance the compensation, if found to be inadequate.

4. Considered the rival submissions. Perused the impugned award. It is a death claim. The claimants are six in number. Three of them are minor.

5. In view of the above, the applicants are permitted to withdraw 75% of the amount deposited in this Court along with interest accrued thereon, on furnishing usual undertaking to the satisfaction of learned Registrar (Judicial) of this Court.

6. The application stands disposed of accordingly.

[R.G. AVACHAT, J.]

KBP