

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

**917 CIVIL APPLICATION NO. 7309 OF 2020
IN FAST/134/2020**

**KAVITA NITIN AWAD AND OTHERS
VERSUS
THE NEW INDIA ASSURANCE CO. LTD., THROUGH ITS
AUTHORISED SIGNATORY, AURANGABAD**

**Advocate for Applicant : Mr. S.A. Wakure.
Advocate for Respondent No. 1 : Mr. D.P. Deshpande.**

**CORAM : SHRIKANT D. KULKARNI, J.
DATED : 01.07.2021**

PER COURT :

It is an application for withdrawal of amount moved by the applicants / original claimants.

2. Heard Mr. Wakure, learned Advocate for the applicants / original claimants and Mr. Deshpande, learned Advocate for respondent No. 1 / Insurance Company. Perused the impugned judgment and award passed in MACP No. 383/2016 by the Chairman, Motor Accident Claims Tribunal, Osmanabad.

3. The learned Chairman, MACT, Osmanabad, was pleased to award compensation of Rs. 10,78,000/- with interest at the rate of 7% per annum to the original claimants. The question is about withdrawal of amount. Mr. Deshpande, learned Advocate appearing

for respondent No. 1 strongly opposes to allow this application by inviting my attention to the impugned judgment, more preferably para Nos. 19, 20 and 21. He points out that it is a false involvement of the vehicle. The Insurance Company has also denied the police papers and the claimant has not taken necessary steps to prove those documents. The involvement of the vehicle has not been duly proved in the eyes of law. He submits that it would be proper to expedite the final hearing of the appeal in stead of allowing the applicants to withdraw the amounts.

4. Certain arguable points are raised by Mr. Deshpande, learned Advocate for the Insurance Company. However, it is a death claim and whatever meritorious contentions raised by Mr. Deshpande, will be certainly looked into at the time of final hearing stage of the appeal. At this stage, I am convinced to allow the applicants to withdraw 50% of the amount deposited by the Insurance Company, however, with certain conditions and an undertaking which would meet the ends of justice.

ORDER

- i. The application for withdrawal of amount is hereby allowed.
- ii. The applicants / claimants are permitted to withdraw 50% of

the amount deposited by the Insurance Company in this Court on usual undertaking and on necessary conditions to the satisfaction of the Registrar (Judicial) of this Court.

iii. The amount shall be disbursed as per the proportion shown in the impugned judgment passed by the MACT, Osmanbad.

iv. Civil Applicant stands disposed of, accordingly.

(SHRIKANT D. KULKARNI, J.)

S.P.C.