

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

**CIVIL APPLICATION NO.7415 OF 2020
IN FA/2256/2020**

**PALLAVI DATTATRAYA SHELKE
VERSUS
THE NEW INDIA ASSURANCE CO. LTD.,
THROUGH ITS AUTHORIZED SIGNATORY, AURANGABAD**

Mr.S.A.Wakure, Advocate for applicant
Mr.M.R.Deshmukh, Advocate for respondent no.1
Mr.P.D.Dadpe, Advocate for respondent nos.3 to 6

**CIVIL APPLICATION NO.7416 OF 2020
IN FA/2256/2020**

**LATABAI GORAKH SHELKE AND ORS.
VERSUS
THE NEW INDIA ASSURANCE CO. LTD.,
THROUGH ITS AUTHORIZED SIGNATORY, AURANGABAD**

Mr.P.D.Dadpe, Advocate for applicants
Mr.M.R.Deshmukh, Advocate for respondent no.2
Mr.S.A.Wakure, Advocate for respondent nos.3

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

ORDER :-

Heard.

2. Learned counsel for the respondent-insurance company submits that the appeal has been filed on the question of quantum and breach of policy conditions.

3. The alleged breach of the policy conditions is not a fundamental breach. So far as regards the appeal on the question of quantum is concerned, the purpose would be served if the applicants are permitted to withdraw 70% of the amount deposited in this Court. In view of the same, I am allowing the claim of only the widow and mother of deceased for withdrawal of amount.

4. Hence, the following order :-

(i) The widow i.e. Smt. Pallavi (applicant in Civil Application No.7415 of 2020) and the mother of the deceased i.e. Smt. Latabai (applicant no.1 in Civil Application No.7416 of 2020) only, are permitted to withdraw 70% of the amount deposited in this Court, on furnishing usual undertaking to the satisfaction of learned Registrar (Judicial) of this Court. The apportionment of 70% amount to be withdrawn by these applicants, shall be 40% to the widow and 30% to the mother.

(ii) The claim of other applicants for withdrawal of amount is rejected for the present.

(iii) Both the applications stand disposed of accordingly.

[R.G. AVACHAT, J.]