

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

953 CIVIL APPLICATION NO.11091 OF 2019
IN FA/677/2019
PIRABAI POSHETTI JALLOD AND ORS
VERSUS
ORIENTAL INSURANCE CO. LTD., THR ITS BRANCH MANAGER,
NANDED AND ORS

Mr.H.H.Padalkar, Advocate for the applicants.
Mr.G.J.Pahilwan, Advocate for respondent No.2.

CORAM : N.J.JAMADAR, J.
DATE : 09.03.2021

PC :-

01. This is an application for withdrawal of amount deposited by respondent No.1 - appellant in terms of judgment and award dated 19.04.2018, passed by the Motor Accident Claims Tribunal, Biloli, in MACP No.19 of 2016.

02. The applicants are wife and children of deceased Poshetti Jallod. The appellant Nos.3 to 5 are minors. There are averments in the application in justification of prayer for withdrawal.

03. Learned Counsel for respondent No.1-appellant resisted the prayer on the ground that the deceased met with an accident while travelling in a goods vehicle and therefore the insurer was not liable to indemnify the insured.

04. The said issue can be legitimately considered at the stage of final hearing of the appeal.

05. Having regard to the fact that applicant No.1 is wife of the deceased and applicant Nos.2 to 5 are children of the deceased and they have been deprived of the income, which the deceased was earning, the prayer for withdrawal of the amount cannot be declined. However, to take care of the interest of respondent No.1 - insurer as well, partial withdrawal would meet the ends of justice.

Hence, following order :-

The applicants are permitted to withdraw a sum of Rs.5,00,000/- (Rupees Five Lakhs) along with interest accrued thereon, on furnishing an undertaking to the satisfaction of learned Registrar (Judicial) of this Court.

The application stands disposed of.

[N.J.JAMADAR,J.]