

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

**CIVIL APPLICATION NO. 12711 OF 2021
IN
FIRST APPEAL NO. 192 OF 2021**

Ushabai Shrikrushna Rajput and Others ..APPLICANTS

VERSUS

Dipak Ramdas Johare and Another ..RESPONDENTS

....
Mr. J.V. Patil, Advocate for applicants
Mr. S.M. Ganachari, Advocate for respondent no.2
....

**CORAM : R.G. AVACHAT, J.
DATED : 30th NOVEMBER, 2021**

PER COURT :

1. Heard.

2. Pay and Recover order has been passed by the tribunal since the owner of the offending vehicle did not hold the permit to ply the same. According to learned counsel for the applicants, it is fundamental breach, entailing exoneration of the appellant – insurance company of its liability.

3. In the fitness of things, the applicants are permitted to withdraw 70% of the amount under the impugned award as against usual undertaking to the satisfaction of the Registrar (Judicial) of this Court. The amount

payable to the minor claimants, be kept in fixed deposit until they attain majority. Balance amount be invested in fixed deposit with any of the nationalised bank, pending the appeal. Civil application stands disposed of accordingly.

(R.G. AVACHAT, J.)

SSD