

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.2188 OF 2019
IN
FIRST APPEAL NO.1113 OF 2013**

Smt.Geeta S. Bhosale & Ors.]...Applicants.

IN THE MATTER BETWEEN:

The New India Assurance CO.Ltd.]...Respondents.

Vs.

Smt. Geeta S. Bhosale & Ors.]... Respondents.

Mr.D.S.Joshi, for appellant in FA no.1113/2013 and for applicant in CAF 3197/2013.

Mr.Jayant Bardeskar, for respondent in FA no.1113/2013 and for applicant in CAF 3197/2013 and for applicant in CAF 2188/2019

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 26TH FEBRUARY, 2021.

P.C. :

1. By this application, the applicants have prayed for withdrawal of the amount of compensation awarded by the M.A.C.T., Kolhapur, on the ground that respondent nos.2 to 4 who were minor at the time of the accident of their father, have been prosecuting their studies and are in need of financial help. So also, the widow of the deceased is required to meet her day to day expenses. It is contended that the mother of the deceased, original claimant no.5 died on 8th July 2014 due to illness. For want of sufficient fund, the applicant could not provide her proper

medical aid. It is also submitted that the appeal is pending since long and therefore, in the interest of justice, some amount is required to be paid to the applicants. Mr.Joshi, the learned Counsel for the appellant, however, objects withdrawal of the amount by stating that he has a good case on merits. According to him, it was a case of sole negligence of the deceased as well as case of no driving license of the driver of the offending vehicle.

2. Having considered respective submissions, at this stage, the applicants are allowed to withdraw 50% of the amount of compensation with accrued interest. At the time of withdrawal, the applicants shall give an Undertaking that in case, the appeal succeeds, they shall refund the entire amount with interest, subject to outcome of the appeal.

3. After withdrawal of the amount, the balance amount shall be invested in a Fixed Deposit in any Nationalized Bank for the period of one year and thereafter for one more year after obtaining order from this Court.

4. Application stands disposed of.

(PRITHVIRAJ K.CHAVAN,J.)