

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

29 CIVIL APPLICATION NO.2785 OF 2022
IN FA/156/2013 WITH CA/15882/2013 IN FA/156/2013

REKHA NARAYAN AMDARE AND ORS
VERSUS
NATIONAL INSURANCE COMPANY LTD., ITS DIVISIONAL MANAGER,
AURANGABAD AND ANR

Mr U.M. Maske Patil, Advocate h/f Mr S.B. Ghatol Patil, Advocate for applicants
Mr S.V. Kulkarni, Advocate for respondent no.1

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 7th March, 2022

PER COURT :

1. It is a second occasion, the applicants/original claimants are seeking withdrawal of balance amount of compensation lying in this Court.
2. Heard Mr U.M. Maske Patil holding for Mr S.B. Ghatol Patil, learned Advocate for applicants and Mr S.V. Kulkarni, learned Advocate for respondent no.1/appellant/Insurance Company
3. Mr S.V. Kulkarni learned Advocate for respondent no.1/appellant/Insurance Company strongly opposed to allow this application. He submitted that the applicants have received 50% of the amount which is more than Rs.6 lakhs. The appellant/Insurance Company has taken specific defence of non-involvement of the vehicle in question in accident.
4. Mr U.M. Maske Patil holding for Mr S.B. Ghatol Patil learned Advocate for applicants submitted that applicant no.2 is taking education in Engineering College and she needs money to meet the educational expenses. He invited my attention to the certificate and bona fide certificate issued by M.G.M. College of Engineering, Nanded.

5. On perusing the record, it is revealed that the Division Bench of this Court (Coram :R.M. Borde and R.V. Ghuge, JJ) vide order dated 12.7.2013 in Civil Application No.8652 of 2013 in F.A.No.156 of 2013 was pleased to allow the original claimants to withdraw 50% of the amount of compensation deposited by the Insurance Company in this Court on furnishing undertaking. Accordingly, the applicants/original claimants have withdrawn 50% of the amount of compensation which comes to Rs.7,86,204/- (including interest). Now, the remaining balance amount of 50% is lying with the Registry. It is noticed that the applicants have received abovesaid amount of compensation in the year 2013. Applicant no.2 Divya d/o Narayan Amdare is taking education in Engineering college and she needs money to meet out educational expenses as per the documents placed on record by the applicants/claimants.

6. By considering this aspect and looking to the defence raised by Insurance Company, I am convinced to allow the applicants/original claimants to withdraw Rs.1 lakh only out of 25% of the balance amount.

ORDER

(i) The Civil Application is partly allowed.

(ii) The applicants are permitted to withdraw Rs.1 lakh only from the 25% balance amount lying in this Court to meet out the educational expenses of applicant no.2 - Divya d/o Narayan Amdare who is taking education in Engineering college, on furnishing usual undertaking to the satisfaction of Registrar (Judicial) of this Court.

(iii) It is made clear that the applicants shall not be entitled to move further application to withdraw remaining balance amount on any ground.

- (iv) The Civil Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

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