

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

928 CIVIL APPLICATION NO.2862 OF 2022
IN FAST/29873/2019

MEGHA ANIL NATHANI AND ANR

VERSUS

RANA TILAKRAJ S/O BRIJLAL AND ANR.

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Advocate for Applicants : Mr K.M. Nagarkar
Advocate for Respondent No. 1 : Mr S.S. Rathi
Advocate for Respondent No. 2 : Mr M.K. Goyanka

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 10th March, 2022

PER COURT :

1. It is an application for withdrawal of compensation moved by the applicants/original claimants.
2. Heard Mr Nagarkar, learned counsel for the applicants/original claimants, Mr Goyanka, learned counsel for respondent No. 2/insurance company and Mr S.S. Rathi, learned counsel for respondent No.1/ owner of the vehicle.
3. Perused the impugned Judgment and award passed in M.A.C.P. No. 379/2016 by the M.A.C.T. Nanded. The Tribunal after considering the rival pleadings of the parties and evidence on record was pleased to award compensation of Rs. 79,30,000/- to the original claimants with interest @ 9% per annum to the claimants. That impugned Judgment is challenged before this Court and it is under scrutiny. The insurance company/appellant has raised two-fold defence (1) the Tribunal has miscalculated the income of the deceased on income tax returns which were subsequently filed on his behalf and secondly, breach of policy.

4. It is not in dispute that deceased was travelling in a private luxury bus which met with an accident and succumbed to injuries. So, it was a death claim.

5. Having considered the submissions of learned counsel for both the sides and looking to the defence raised by the insurance company, I am convinced to allow the applicants to withdraw 75% of the amount of compensation as under :-

ORDER

- (I) The application is hereby allowed.
- (II) The applicants are permitted to withdraw 50% of the amount of compensation on furnishing usual undertaking to the Registrar (Judicial) of this Court.
- (III) The applicants/original claimants are further permitted to withdraw 25% of the compensation amount on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court.
- (IV) Remaining 25% of the balance amount shall be invested in any nationalized bank for a period of two years with renewal clause.
- (V) The Civil Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)