

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

**947 CIVIL APPLICATION NO.7941 OF 2021
IN FAST/7734/2017**

**SARSWATIBAI W/O RAJU KAPSE AND ANOTHER
VERSUS
RAMPRASAD S/O GOPIKISHAN TOSHNIWAL AND OTHERS**

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Mr. R.O. Awasarmol, Advocate for the applicants.
Mr. Ramesh Wakade, Advocate for respondent No.5.
Mr. V.N. Upadhye, Advocate for respondent No.2.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 18.10.2022.

ORDER:-

1. Heard rival submissions. The applicants are seeking withdrawal of remaining compensation amount as deposited by the appellant Insurance Company. The learned Counsel for the present respondent No.5 Vishwanath Bhimrao Kapse submitted that Vishwanath has already withdrawn amount of Rs. 75,000/- out of the compensation amount. Further, mother of deceased Kamlabai who is respondent No.6, is no more. As such, only the applicants Saraswatibai and Ashwini out of the claimants are there for seeking withdrawal of compensation amount. The learned Counsel for the Insurance Company, though opposed such withdrawal, but it appears that in the appeal itself the Insurance Company has

sought pay and recover order. As such, there cannot be any bar to the withdrawal as sought by the applicants in this application. In view of the same, the applicants herein are permitted to withdraw the balance amount of compensation alongwith the accrued interest thereon till date subject to the final outcome of this appeal. The amount so paid to the applicants be distributed equally between them.

2. The application is disposed of accordingly.

(SANDIPKUMAR C. MORE, J.)