

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

938 CIVIL APPLICATION NO.6583 OF 2022 IN FA/3236/2021

**NANDA RAOSAHEB MORE AND OTHERS
VERSUS
THE ORIENTAL INSURANCE CO. LTD., DIVISIONAL OFFICE,
AHMEDNAGAR AND OTHERS**

....

Mr. A.S. Gandhi, Advocate for the Applicants
Mr. U.S. Malte, Advocate for Respondent No.1

....

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 27th APRIL, 2022

PER COURT:-

1. It is an application for withdrawal of compensation amount moved by the applicants / claimants.
2. Heard Mr. Amol Gandhi, learned counsel for the applicants / claimants and Mr. Uday Malte, learned counsel for respondent No.1 / insurance company. Perused the impugned judgment and award passed in M.A.C.P. No. 114/2015 by the Member, M.A.C.T. Newasa dated 25.03.2021.
3. It is a death claim. The Tribunal was pleased to assess the compensation of Rs.42,00,000/- fixing the liability on the owner, driver and the insurer of the motorcycle, which alleged to have given dash to the deceased, who was driving the motorcycle at the time of the accident.

4. Mr. Malte, learned counsel for the insurance company pointed out that there is inordinate delay in lodging the F.I.R. There was delay of 55 days in registration of the F.I.R. No sufficient reasons are assigned for such inordinate delay, which itself speaks about the false involvement of the vehicle. He further submitted that the deceased was not holding the effective and valid driving licence on the date of the accident. He, therefore, strongly opposed to allow this application.

5. Mr. Gandhi, learned counsel for the applicants / claimants submitted that the deceased met with an accident on 21.07.2015. It was an accident between two motorcycles. Soon after the accident, the deceased was taken to City Care Hospital, Ahmednagar for medical treatment and on the very day shifted to Rubi Hall Clinic, Pune for further treatment, where he was admitted for one month. He submitted that the deceased died on 23.08.2015. Thereafter, the F.I.R. came to be registered on 16.09.2015. He submitted that this aspect was considered by the Tribunal while delivering the impugned judgment. The claimants have given satisfactory explanation for delay in lodging the F.I.R. He, therefore, urged to allow this application.

6. Having regard to the submissions of both the sides and looking to the facts and circumstances of the case and looking to the grounds raised in the appeal memo, I am of the view that the applicants / claimants may be allowed to withdraw 50% of the amount of compensation with accrued interest thereon, which would meet the ends of justice.

ORDER

(i) The application is hereby allowed.

(ii) The applicants / claimants are hereby permitted to withdraw 50% of the amount of compensation with accrued interest thereon on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

(iii) The payment should be made as per the apportionment made by the Tribunal in clause (4) of the operative order in same proportion by transferring the amount in the savings bank accounts of the applicants / claimants.

(iii) Remaining 50% of the amount of compensation with accrued interest thereon shall be invested in the fixed deposit with any nationalized Bank initially for a period of one year with clause of renewal.

(iv) The civil application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P Rane