

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

945 CIVIL APPLICATION NO.9830 OF 2022
IN FA/3241/2021 WITH CA/13775/2021 IN FA/3241/2021

NIRMALA UTTAM DUDHADE AND ORS
VERSUS
ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD., AND ORS

...
Advocate for Applicants : Mr. M.S. Mhase
Advocate for respondent No.1 : Mr. M.R. Deshmukh

...
CORAM : S. G. DIGE, J.
DATE : 14.07.2022

PER COURT :-

Heard learned counsel for the applicant and learned counsel for the respondent. Learned counsel for the applicant submits that respondent has deposited awarded amount granted by learned tribunal before this Court. The deceased was earning member of the applicant family, there is no source of income to the applicant. Applicant needed the amount for education and medical purpose. Hence applicant be permitted to withdraw the amount deposited by the respondent.

2. Learned counsel for the respondent strongly objected to allow the application.

3. I have heard both the learned counsel.

4. Respondent has challenged the order of the learned tribunal on the ground of quantum and contributory negligence.

It is contention of the learned counsel for the respondent that the learned tribunal has granted excess amount as compensation which is impugned by the respondent. In my view, there is no dispute about accident and in which deceased lost his life. The applicants are legal heirs of the deceased. They have not received single paisa after death of deceased. The respondent has deposited more than 80,00,000/- before this Court hence appellants are permitted to withdraw the amount.

5. Learned counsel for the applicant submits that only applicant Nos. 1,2, 3 and 5 be permitted to withdraw the amount. Applicant No.4 is died during the pendency of the appeal and legal heirs of applicant No.4 has relinquished their rights. Her statement is accepted. She further submits that affidavit of legal heirs of respondent No.4 is filed on record. Considering above facts I pass the following order :

ORDER

- (I) Applicants are permitted to withdraw Rs. 50,00,000/- out of deposited amount.
- (ii) The applicant shall withdraw the said amount as per apportionment done by the learned tribunal.

**(S.G. DIGE,)
JUDGE**