

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

72 CIVIL APPLICATION NO.9038 OF 2022
IN FIRST APPEAL NO.2869 OF 2021

TUKARAM SITARAM BHIL & OTHERS
VERSUS
THE HDFC ERGO GENERAL INSURANCE CO. LTD.,
AURANGABAD

...

Advocate for Applicants : Mr.S.S.Patil
Advocate for Respondent no.1 : Mr.M.R.Deshmukh

...

CORAM : S.G.DIGE, J.
DATE : 18.07.2022

P.C. :

1] Heard the learned counsel for the applicants and respondent no.1. The learned counsel for the applicants submits that respondent no.1 has challenged the order of the learned Motor Accident Claims Tribunal, Dhule and has deposited the entire award amount before this Court. The applicants are causing hardship by not getting actual amount though the judgment and award is in their favour. The applicants have no other source of income. The accident took place in the year 1997 since then the applicants are somehow managing their day to day expenditure of livelihood including expenses of their family.

Therefore, the applicants having dire necessity of amount of compensation.

2] The learned counsel for respondent no.1 submits that respondent no.1 has filed appeal on two grounds, namely, the place where the accident took place was agricultural field and not a public place and the accident occurred in the thresher machine and not by dash of the tractor. If respondent no.1 succeeds in the appeal, it would be difficult for respondent no.1 to recover the amount from the applicants if they are permitted to withdraw the amount, hence, requested to dismiss the application.

3] I have heard both the learned counsel. Admittedly, accident took place in the year 1997 since then the applicants did not get a single rupee as compensation. The deceased was the Karta of the family of the applicants. The applicants have no source of income. They are facing hardship due to paucity of funds. Hence, I pass the following order : -

ORDER

i] The applicants are permitted to withdraw 50% amount out of the deposited amount by giving undertaking. The prayer clause-C of the Application is also allowed.

ii] Civil Application is disposed of accordingly.

**[S.G.DIGE]
JUDGE**

DDC