

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

944 CIVIL APPLICATION NO.9089 OF 2022
IN FIRST APPEAL NO.65 OF 2022

NAVNATH BABURAO PAWAR AND ANOTHER
VERSUS
THE DIVISIONAL MANAGER, IFFCO TOKYO GENERAL
INSURANCE CO. LTD. AHMEDNAGAR & ANOTHER

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Advocate for the Applicants : Mr.K.N.Shermale
Advocate for Respondent no.1 : Mr.S.G.Chapalgaonkar

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CORAM : S.G.DIGE, J.
DATE : 04.08.2022

P.C. :

1] Heard the learned counsel for the applicants
and the learned counsel for respondent no.1.

2] The learned counsel for the applicants submits
that respondent no.1 has challenged the judgment and
award passed by the Motor Accident Claims Tribunal,
Sangamner. Respondent no.1 has deposited the entire
award amount before this Court. The applicants are the
parents of the deceased. The deceased was the Karta of
family of the applicants and only earning member of the

family. The applicants have no source of income. The deceased was serving as labourer and fulfilling needs of the applicants for their livelihood. Due to death of deceased, the applicants are suffering from bad economical position, hence, the applicants be permitted to withdraw the amount.

3] The learned counsel for respondent no.1 submits that there is 19 days delay for filing the FIR after accident. FIR was lodged by the cousin of the deceased. It is alleged that though accident was happened in crowd but only one eye witness i.e. cousin of deceased is shown as eye witness. It is the case of respondent no.1 that offending vehicle is falsely involved in the said accident. The death of deceased was caused due to fallen from the motor cycle and due to his own negligence. If this Court permits the applicants to withdraw the amount and respondent no.1 succeeds in the appeal, it would be difficult for respondent no.1 to recover the amount, hence, requested to dismiss the application.

4] I have heard both learned counsel. Admittedly, deceased was the son of the applicants. The applicants are old age persons. They have no source of income. The issue raised by respondent no.1 are dealt with by the learned Tribunal. If the solvent surety is taken from the applicants while permitting them to withdraw the amount, it would meet ends of justice and I pass the following order :

ORDER

i] The application is allowed. The applicants are permitted to withdraw 50% amount along with accrued interest thereon out of deposited amount by respondent no.1 on furnishing solvent surety.

ii] The learned counsel for respondent no.1 submits that if the applicants file application for relaxation of condition of solvency surety, it may not be considered.

iii] It can be considered when application is filed.

iv] Civil Application is disposed of accordingly.

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