

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

938 CIVIL APPLICATION NO.8883 OF 2021
IN FIRST APPEAL NO.1980 OF 2012

KOMAL NAMDEV KHARAT & ANOTHER
VERSUS
THE NEW INDIA ASSURANCE CO. LTD & OTHERS

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Advocate for Applicants : Mr.R.V.Gore
Advocate for Respondent no.1 : Mr.S.S.Dargad h/f.
Mr.S.G.Chapalgaonkar
Advocate for respondent no.4 : Mr.S.V.Kulkarni

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CORAM : S.G.DIGE, J.
DATE : 08.07.2022

P.C. :

1] Heard the learned counsel for the applicants, learned counsel for respondent nos.1 and learned counsel for respondent no.4.

2] The learned counsel for the applicants submits that respondent no.1 has impugned the judgment and award passed by the learned MACT, Jalna. Respondent no.1 has deposited the amount of award, which was fastened on respondent no.1 by the learned Tribunal before this Court. This Court has allowed respondent nos.1, 4 and 5 to withdraw the amount of their share. At that time, present applicants were minor. Now the applicants have become major and they want the amount for their further

education. Hence, requested to allow the applicants to withdraw the amount.

3] The learned counsel for respondent no.1 submits that 40% liability is fastened on respondent no.1. Accordingly, respondent no.1 has deposited the amount of his share before this Court. Respondent no.1 has the impugned order of learned Tribunal. If the applicants are allowed to withdraw the amount and if respondent no.1 succeeds in the Appeal, then, it is difficult for respondent no.1 to recover the amount.

4] I have heard all the learned counsel. Admittedly, this Court has allowed claimant nos.1, 4 and 5 i.e. respondent nos.1, 4 and 5 to withdraw the amount of their share out of the deposited amount. At that time, applicants were minor. Now, the applicants have become major. They need the amount for their further education. Hence, I pass the following order:-

ORDER

i] The application is allowed.

ii] The applicants are allowed to withdraw 50% amount of their share along with accrued interest thereon

by furnishing undertaking before the learned Registrar [Judicial] of this Court.

iii] Civil Application is disposed of accordingly.

iv] Considering the submissions of all learned counsel, matter be kept for final hearing on 30th August, 2022.

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

DDC