

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

**CIVIL APPLICATION NO.11708 OF 2022
IN FA/116/2022**

SHIVKANTA W/O BALASAHEB KENDRE AND ORS
..APPLICANTS

VERSUS

SHRIRAM GENERAL INSURANCE CO. LTD., THR ITS BRANCH
MANAGER, JAIPUR, RAJASTHAN AND ANR ..RESPONDENTS

...
Mr. K. N. Shermale h/f Mr. Sayyed Umair Pasha A
Quader, Advocate for the Applicants.
Mr. Swapnil S. Rathi, Advocate for Respondent No.1.
...

CORAM : S. G. DIGE, J.

DATED : 22nd AUGUST, 2022.

PER COURT:-

1. Heard learned counsel for the applicants and 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 Tribunal and has deposited entire award amount. The applicants are widow and sons of the deceased. The applicant nos.2 and 3 are taking education. They require the amount for education purpose as well as for house expenses. Hence, requested to allow the application.

3. The learned counsel for respondent no.1 submits that, initially the offence was registered against the unknown vehicle and after 12 days of the accident it is shown that the alleged vehicle was involved in the accident. The respondent no.1 has taken specific plea that, there is false involvement of the vehicle and income of the deceased is shown on higher side. If the applicants are permitted to withdraw the amount and respondent no.1 succeeded in appeal, it would be difficult for respondent no.1 to recover the amount. Hence, requested to dismiss the application.

4. I have heard both the learned counsel.

5. The applicant no.1 is the widow of the deceased. The applicant nos.2 and 3 are sons of the deceased who are taking education. The deceased was Karta of the family. There is no source of income to the family of the applicants after demise of deceased. Considering the objections raised by the learned counsel for respondent no.1, if undertaking and solvent surety is taken for withdrawal of the amount would meet ends of justice. Hence, I pass the following order:

ORDER

(a) Application is allowed.

(b) The applicants are permitted to withdraw 25% amount alongwith accrued interest thereon

out of the deposited amount by the respondents on furnishing undertaking.

- (c) The applicants are permitted to withdraw 25% amount alongwith accrued interest thereon out of the deposited amount by the respondents on furnishing solvent surety/security.

6. The learned counsel for the applicants further submits that, the amount deposited by respondent no.1 is not as per proper calculations, hence liberty be given to the applicants to make proper calculations and give it to the learned counsel for respondent no.1. Liberty granted.

(S. G. DIGE)
JUDGE