

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

67 CIVIL APPLICATION NO.12371 OF 2022
IN FA/498/2022

KANIFNATH S/O SHIVAJI TEMKAR (DIED) THR LRS MANISHA WD/
O KANIFNATH TEMKAR AND ORS

VERSUS

AVINASH S/O ANANT GHUGE AND ANR

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Advocate for Applicants : Mr. Wagh Umakant U.

Advocate for Respondent No.1 : Mr. S. S. Thombre

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**CORAM : S. G. DIGE, J.
DATE : 29.08.2022**

PER COURT :-

Heard learned counsel for the applicants and learned counsel for respondent No.1.

2. Learned counsel for the applicants submits that, the deceased was husband of applicant No.1-A and father of applicants No.1-B and 1-C, and son of applicant No.1-D. He was Karta of the family of the applicants. His death caused due to the accident. The applicants are facing difficulties for day-to-day activities due to paucity of funds. The respondent No.1 has deposited 50% amount out of the entire award amount before this Court. Hence requested to allow the applicants to withdraw the said amount.

3. Learned counsel for respondent No.1 submitted that initially the complaint was filed against the dash given by Truck. Later on, the vehicle of respondent No.1 is involved in the said accident. Involvement of the vehicle of the respondent No.1 is disputed by filing the appeal. If applicants are allowed to withdraw the amount and respondent No.1 succeeds in the appeal, it would be difficult for respondent No.1 to recover the said amount. Hence requested to dismiss the application.

4. I have heard both the learned counsel. Learned counsel for the applicants has submitted that, the deceased was Karta of the applicants' family. The applicants need the amount for education of applicant No.1-B and 1-C and for medical treatment of applicant No.1-D. The issue raised by respondent No.1 is considered by the Tribunal and has given reasoning on them. At this stage, if undertakings are given by the applicants at the time of allowing of this application, it would meet the ends of justice. Hence I pass the following order.

ORDER

- (1) The application is allowed.
- (2) Applicants are permitted to withdraw Rs. 3,00,000/- (Rs. Three lakhs) along with accrued interest thereon out of deposited amount by respondent No.1 on furnishing

undertaking.

- (3) Applicants are permitted to withdraw Rs. 1,00,000/- along with accrued interest thereon out of deposited amount by respondent on furnishing solvent surety.

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

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