

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

925 CIVIL APPLICATION NO.3317 OF 2020
IN FA/2269/2018

ANITA ANKUSH DHAWALE & OTHERS
VERSUS
THE NEW INDIA ASSURANCE CO. LTD. & OTHERS

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Advocate for the applicants : Mr.V.M.Humbe
Advocate for Respondent no.1 : Mr.S.G.Chapalgaonkar

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CORAM : S.G.DIGE, J.
DATE : 18.08.2022

P.C. :

1] Heard the 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 Motor Accident Claims Tribunal, Jalna on various grounds and has deposited entire award amount before this Court. The applicant no.1 is the widow of deceased. Applicant no.2 is son of deceased and applicant nos.3 and 4 are the parents of deceased. Deceased Ankush was the karta of the family. He was only earning member in the family of the applicants. After death of deceased, applicants are facing starvation and they are facing hurdles for their day to day activities, hence, requested to allow the application.

3] The learned counsel for respondent no.1 submits that initially first information report was registered against unknown vehicle. After four months of the accident, offending jeep is shown as vehicle in the alleged accident. It creates doubt about involvement of the vehicle in the accident. If this Court permits the applicant to withdraw the amount and respondent no.1 succeeds in the appeal then 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. The Tribunal has passed the impugned judgment and award in favour of the applicants. Applicant no.1 is widow and applicant no.2 is son of the deceased. There is no source of income to the applicants family. Deceased was the karta of the family of applicants. They require money for their day to day business. The issue raised by respondent no.1 can be considered at the time of final hearing of the appeal, hence, I pass the following order :

ORDER

i] The application is allowed.

ii] The applicants are allowed to withdraw 25% amount along with accrued interest on furnishing

undertaking and 25% amount along with accrued interest on furnishing solvent surety.

iii] Civil Application is disposed of accordingly.

[S.G.DIGE]
JUDGE

DDC