

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

**931 CIVIL APPLICATION NO.14721 OF 2022
IN FA/25/2021**

**BABASAHEB S/O SHIVAJI SHERMALE AND OTHERS
VERSUS
NATIONAL INSURANCE COMPANY LTD., THROUGH ITS
DIVISIONAL OFFICE, AURANGABAD AND ANOTHER**

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Mr. R.B. Dhakane, Advocate for the applicants.
Mr. S.V. Kulkarni, Advocate for respondent No.1.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 18.10.2022.

ORDER:-

1. Heard the rival submissions. The applicants who are the original claimants, are seeking withdrawal of entire amount of compensation deposited by the Appellant - Insurance Company as per the impugned award.

2. The learned Counsel for the Insurance Company strongly opposed the application on the ground that involvement of alleged motorcycle in the accident is doubtful since the F.I.R. in respect of the accident lodged belatedly on 08.09.2015 i.e. after about one month of the accident which took place on 11.08.2015. However, the learned Counsel for the applicants - claimants pointed out the relevant observation of the learned Tribunal in the impugned judgment where the counsel of Insurance Company before the learned

Tribunal failed to put up suggestions to the said motorcycle owner that his motorcycle was not involved in the accident and it was not being driven by him at the time of accident. Considering this observation, I am of the opinion that at least 40% of the deposited amount can be given to the applicant No.1 father at this juncture by retaining the remaining amount to safeguard the interest of minor sons of the deceased. Hence, I pass the following order.

ORDER

- (i) The applicant No.1 is permitted to withdraw 40% of the compensation amount alongwith the proportionate interest accrued thereon till date, on furnishing usual undertaking before the Registrar (Judicial) of this Court.
- (ii) The remaining amount be invested in F.D.R. in any Nationalized Bank till disposal of this appeal.
- (iii) The application is disposed of.

(SANDIPKUMAR C. MORE, J.)