

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

19 CIVIL APPLICATION NO.4626 OF 2019 IN FA/1176/2019

**SHANKAR TUKARAM PATIL (DHAMODE) AND ORS
VERSUS
THE NEW INDIA ASSURANCE CO LTD., THR ITS SR. DIV. MANAGER,
AURANGABAD AND ANR**

...
Advocate for Applicants : Mr. Tiwari Arivind K.
Advocate for Respondents : Mr. S. R. Bodade
...

**CORAM : SANDIPKUMAR C. MORE, J.
DATE : 3rd October, 2022**

P.C.:-

Heard rival submissions.

2. The applicants who are the original claimants are seeking withdrawal of entire amount deposited by the present respondent no.1-Insurance Company before this Court along with the accrued interest thereon. The learned counsel for the respondent-Insurance Company strongly opposes the application on the ground that the deceased was travelling in private rickshaw and therefore not entitled for compensation from insurance company as there was breach of policy condition. However, in view of **Nanjappan's** case the pay and recover order can be passed. The learned counsel for respondent

no.1-Insurance Company also submits the same but he disputed the quantum of compensation as excessive amount under the head of consortium has been awarded by the learned Tribunal. In view of the same, certain amount can be retained at this juncture. Hence following order is passed:

ORDER

- i) The applicants-claimants are permitted to withdraw only 80% of the amount of impugned award along with proportionate interest thereon accrued till today.
- ii) The remaining amount be invested in FDR in any nationalised bank till disposal of this appeal.

[SANDIPKUMAR C. MORE]
JUDGE