

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD.

908 CIVIL APPLICATION NO.1894 OF 2022  
IN FAST/19014/2020

ANIL KARBHARI AVHAD AND ANOTHER  
*VERSUS*  
HDFC ERGO GENERAL INSURANCE CO. LTD.,  
THROUGH ITS BRANCH MANAGER, AURANGABAD AND ANOTHER

...  
Advocate for Applicants : Mr. Sartaj H. Pathan.

Advocate for Respondent No.1: Mr. S. G. Chapalgaonkar.

...

CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 17<sup>th</sup> February, 2022.

**P.C.:**

. It is an application for withdrawal of compensation amount moved by the applicants/original claimants.

2 Heard Mr. Sartaj Pathan, learned counsel for applicants and Mr.Chapalgaonkar, learned counsel for respondent No.1/insurance company.

3 Mr. Pathan, learned counsel submits that the applicants are old aged parents and they may be allowed to withdraw 100% of the compensation amount.

4 Per contra, Mr. Chapalgaonkar, learned counsel for respondent No.1/insurance company submits that the insurance company has preferred this appeal mainly on two grounds. First, it is a case of

contributory negligence and the Tribunal has not considered that aspect and secondly, it is a death of a bachelor son of parents and the Tribunal has committed an error in deducting 1/3<sup>rd</sup> amount while making calculation of compensation. Therefore, Mr. Chapalgaonkar, learned counsel for respondent No.1/insurance company submits that the claimants may be permitted at the most 50% of the compensation amount awarded by the Tribunal.

5 Having regard to the submissions of the learned counsel for applicants and the learned counsel for respondent No.1/insurance company and looking to the grounds raised in the appeal memo, it would be just and proper to allow the applicants to withdraw 50% of the amount of compensation deposited by the insurance company, which would meet the ends of justice. Hence, the following order is passed:

### **ORDER**

- I. Applicant Nos.1 and 2 are hereby allowed to withdraw 50% of the compensation amount with accrued interest thereon on furnishing usual undertaking with the Registrar (Judicial) of this Court.

- II. The 50% amount of compensation shall be invested in fixed deposit account in any nationalized bank.
- III. Civil application is accordingly disposed of.

[ SHRIKANT D. KULKARNI, J. ]

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