

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 17 OF 2020
IN
FIRST APPEAL NO. 626 OF 2016**

Bapu Shripat Ghodke and anr. Applicants

In the matter between :-

Iffco Tokio General Insurance Co. Ltd. Appellant

v/s.

Bapu Shripat Ghodke and ors. Respondents

Ms. S.S. Dwivedi i/b. Ms. Jyoti Bajpayee for the Appellant.

Mr. Rahul More for the Respondents.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 19th OCTOBER, 2022.

P. C. :-

. By this Application, the Applicants who are the parents of the deceased seek withdrawal of the compensation deposited by the Appellant – Insurance Company.

2. Learned counsel for the Applicants states that the challenge in the Appeal is to the quantum of the compensation and liability of the Appellant – Insurance Company to indemnify the insured for breach of terms and conditions of the policy.

3. The Tribunal has given liberty to the Appellant – Insurance Company to recover the amount from the insured. Furthermore, the

quantum of compensation awarded by the Tribunal does not prima facie appear to be exorbitant or unjust. Under the circumstances, the Applicants/original claimants are permitted to withdraw 75% of the compensation along with proportionate interest accrued thereon.

4. Suffice it to say that withdrawal of compensation is subject to the final outcome of the Appeal. The Applicants shall file an undertaking before the Claims Tribunal that they shall refund the compensation along with interest in the event the Appellant – Insurance Company succeeds in the Appeal. The Tribunal to re-invest the balance amount of compensation in a fixed deposit in any nationalized bank until further orders.

5. Civil Application stands disposed of.

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(SMT. ANUJA PRABHUDESSAI, J.)