

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

**927 CIVIL APPLICATION NO.1266 OF 2023
IN FAST/31204/2019**

**SANJAY GANPATI RATHOD AND OTHERS
VERSUS
TAHER DASTGIR SHAIKH AND OTHERS**

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Mr. R.P. Adgaonkar, Advocate for the applicants.
Mr. R.B. Narwade, Advocate for respondent No.2.
Mr. V.N. Upadhye, Advocate for respondent No.3.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 08.02.2023.

ORDER:-

1. Heard rival submissions. The applicants are seeking withdrawal of the entire compensation amount alongwith interest accrued thereon as deposited by the respondent No.3 - Insurance Company. Learned Counsel for the respondent Insurance Company strongly opposed the application on the ground that the appeal is filed by disputing the involvement of offending vehicle in the accident as the F.I.R. in respect of the accident was lodged after about one month. The learned Counsel for the applicant submits that the M.L.C. of the applicant was in fact immediately sent to police on the very day of accident, but the police did not do anything. Moreover, the learned Tribunal has also properly

explained as to why such delay occurred in the judgment itself. Moreover, the Hon'ble Apex Court has also observed in many cases that such delay cannot be treated as fatal since it was prime duty to take the injured into the hospital first.

2. In view of the above, the applicants at this juncture, are allowed to withdraw 75% of the deposited compensation amount alongwith the proportionate accrued interest thereon till date, on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court. The remaining amount be invested in F.D.R. in any Nationalized Bank on yearly renewal basis, till final disposal of this appeal.

3. The application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)