

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

**CIVIL APPLICATION NO. 5087 OF 2023 IN
FIRST APPEAL NO. 174 OF 2019**

Kamalbai Kashinath Pawar & others Applicants

Versus

New India Assurance Co. Ltd. & others Respondents

Mr. S. S. Dargad, advocate for the applicants.

Mr. M. M. Ambhore, advocate for Respondent No.1.

CORAM : SANDIPKUMAR C. MORE, J.

DATE : 19th July, 2023.

PC :

Heard rival submissions.

The applicants are seeking withdrawal of entire amount of compensation, which has been deposited by the appellant-Insurance Company.

The learned Counsel for the Insurance Company strongly opposed the application on the ground that the FIR was initially registered against unknown vehicle and after 47 days, the offending vehicle was shown to be traced based on the supplementary statement of complainant, who had lodged an FIR.

However, it seems that the applicants-claimants have examined three eye witnesses. Though, one of them have admitted in the cross-examination that he could not see the registration of offending vehicle due to darkness, but the other two witnesses remained unshattered even in the cross-examination. On the contrary, the Insurance Company has not led any evidence.

In view of the same, the applicants herein are permitted to withdraw 75% of the deposited amount along with proportionate interest accrued thereon till date, at this stage and as per the apportionment done by the learned Tribunal, by furnishing usual undertaking to the satisfaction of Registrar (J) of this Court. The remaining amount be invested in FDR, in any Nationalised Bank, on yearly renewal basis, till final disposal of this appeal.

Civil Application is disposed of.

(SANDIPKUMAR C. MORE)
JUDGE