

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

926 CIVIL APPLICATION NO.9501 OF 2022
IN FA/787/2022 WITH CA/5627/2022 IN FA/787/2022 WITH X-
OBJ/100/2022 IN FA/787/2022

MANISHA W/O RAMESHWAR BHOSALE AND ORS
VERSUS
THE NEW INDIA ASSURANCE CO. LTD., THR ITS BRANCH
MANAGER, LATUR AND ORS

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Advocate for Applicants : Mr. Patel Fayaz K.
Advocate for Respondent No.1 : Mr. M. M. Ambhore

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**CORAM : SANDIPKUMAR C. MORE, J.
DATED : 17/02/2023.**

P. C. :

A) IN CIVIL APPLICATION NO.9501 OF 2022 :

1. Heard rival submissions.
2. The applicants are seeking withdrawal of the entire amount of compensation, which has been deposited by the insurance company alongwith the interest accrued thereon.
3. The learned counsel for the insurance company strongly opposed the application on the ground that there was an aspect of contributory negligence and also the breach of policy condition, which is not considered at all by the learned Tribunal.
4. However, the FIR seems to be against the offending Truck. Moreover, the aspect of breach of policy condition has been raised for the first time at the time of this appeal. In view of the same and considering that two applicants-claimants are minor, the applicant Nos.1, 4 & 5 are permitted to withdraw their shares from the total compensation amount as apportioned by the learned Tribunal

alongwith the proportionate interest thereon on usual undertaking to the satisfaction of the Registrar (Judicial) of this court.

5. The remaining amount falling to the respective shares of applicant Nos.2 & 3 be kept in FDR in any nationalized Bank on yearly renewal basis till they attain majority. After attaining majority, the applicant Nos.2 & 3 will be at liberty to seek withdrawal of their shares.

6. The civil application is accordingly disposed of.

B) IN CIVIL APPLICATION NO.5627 OF 2022 :

Since the appellant – insurance company has deposited entire amount of compensation as directed by this court, the application is made absolute in terms of prayer clause-B and disposed of accordingly.

(SANDIPKUMAR C. MORE, J.)