

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

**913 CIVIL APPLICATION NO.4958 OF 2023
IN FA/220/2023 WITH CA/694/2023 IN FA/220/2023**

**INDUMATI W/O DAGDUAPPA SONATAKKE AND OTHERS
VERSUS
UNITED INDIA INSURANCE COMPANY LTD THROUGH ITS
BRANCH MANAGER AND ANOTHER**

...

Mr. R.V. Gore, Advocate for the applicants.

Mr. A.B. Gatne, Advocate for respondent No.1.

...

**CORAM : SANDIPKUMAR C. MORE, J.
DATED : 20th June 2023.**

ORDER:-

IN CIVIL APPLICATION NO. 4958 OF 2023 :

1. Heard rival submissions.
2. The applicants are seeking withdrawal of the entire amount of compensation alongwith the interest accrued thereon, which has been deposited by the respondent - Insurance Company
3. The learned Counsel for the Insurance Company strongly opposed the application on the ground that the offending vehicle which was shown to be involved in the accident, was not at all involved in the accident and the owner of said vehicle had in fact in collusion with the claimants. He pointed out the evidence of eye witness who had allegedly seen the accident and submitted that the conduct of said witness was doubtful. However, though he did not disclose the registration number of offending vehicle at the earliest, but thereafter told the same to police and he also testified before the Tribunal.

4. The second ground raised by the learned Counsel for the appellant Insurance Company is that the learned Tribunal apparently erred in assessing the quantum of compensation and contrary to the direction of the Hon'ble Apex Court added future prospects to the extent of 50% instead of only 10%. Admittedly, there is apparent error in respect of addition of such future prospects. Therefore, considering all these aspects and taking into consideration the exorbitant compensation based on wrong calculation, the applicants are permitted to withdraw only 40% amount of compensation alongwith the proportionate interest accrued thereon till date from their respective shares as determined by the learned Tribunal, on usual undertaking to the satisfaction of the Registrar (Judicial) of this court.
5. The remaining amount be kept in FDR in any nationalized Bank on yearly renewal basis till final disposal of this appeal.
6. The civil application is accordingly disposed of.

IN CIVIL APPLICATION NO. 694 OF 2023 :

. Since the appellant Insurance Company has deposited entire amount of compensation, the application is made absolute in terms of prayer clause (B) and disposed of.

(SANDIPKUMAR C. MORE, J.)