

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

**CIVIL APPLICATION NO.5643 OF 2023
IN
FIRST APPEAL NO. 3036 OF 2022**

**MADHUKAR BALIRAM SURWASE AND ANR
VERSUS
FORMARLY KNOWN AS LIBERTY VIDEOCON GENERAL INSURANCE CO.
LTD, THROUGH ITS MANAGER AND ORS**

...
Advocate for Applicant: Mr. S. N. Patne
Advocate for Respondent No.2: Mr P. S. Chavan

...
CORAM : S. G. CHAPALGAONKAR, J.

DATE : 22.06.2023

PER COURT :

1. The award passed by the Tribunal is subject matter of challenge. The applicants / original claimants are seeking withdrawal of the amount deposited by the insurance company in the appeal.
2. The learned Advocate appearing for the applicants would submit that in fact, just compensation has been awarded by the Tribunal.
3. Mr. Patil, learned Advocate appearing for respondent – insurance company opposes the prayer for withdrawal of amount stating that the risk of the deceased was not covered under the policy. The Tribunal has rightly recorded such findings, however directed the insurer to satisfy the award and then recover the compensation amount from the owner of the vehicle. He would submit that, the Tribunal ought to have exonerated insurance company. Therefore, the present appeal is filed.

4. Having considered the submissions advanced, it can be gathered that, the child of the applicants lost his life in an accident. The Tribunal has taken a pragmatic view of the matter and passed the award. Considering the submissions advanced and reasoning adopted by the Tribunal, it would be appropriate to permit the applicants to withdraw 60% of the amount of compensation deposited in this Court.

5. The applicants are, therefore, permitted to withdraw 60% of the amount of compensation deposited in this Court on furnishing usual undertaking to the satisfaction of the Registrar [Judicial] of this Court to refund the amount, if so directed by this Court at the time of final disposal of appeal.

6. The balance amount be kept in fixed deposit in any Nationalized Bank initially for the period of two years with renewal clause till disposal of the appeal.

7. Civil Application is allowed in the above terms and the same is disposed of accordingly.

(S. G. CHAPALGAONKAR, J.)

Sameer