

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

935 CIVIL APPLICATION NO.6003 OF 2023  
IN FA/3921/2022

KAVITA W/O BALU @ BALIRAM SHINDE  
VERSUS  
NEW INDIA INSURANCE COMPANY

...  
Advocate for Applicant : Mr. Ghatol Patil Shahaji B.  
Advocate for Respondent : Mr. A. S. Usmanpurkar  
...

**CORAM : ARUN R. PEDNEKER, J.**

**DATE : 19/08/2023**

**PER COURT :**

Heard the learned Advocate for the applicant and the learned  
Advocate for the respondent.

2. The applicants are granted compensation as under :-

"1. The petition is partly allowed.

2. The respondents No.1 to 3 are directed to pay jointly and severally an amount of Rs.46,45,000/ [Rupees Forty Six Lacs Forty Five Thousand Only] including no fault liability amount to the petitioners, together with an interest at the rate of 8% [eight percent per annum] from the date of filing of this petition till its realization in equal proportionate.

3. The respondents/Insurer shall satisfy the award by depositing the awarded amount by RTGS or NEFT into a bank account bearing No.40731600849 IFSC Code SBIN0003667

*State Bank of India, Main Branch, Parbhani maintained by the Tribunal in the name of Ex-Officio Member, Motor Accident Claims Tribunal, Parbhani.*

*4. On deposit of the above amount ;*

*(A) An amount of Rs.10,00,000/ (Rupees Ten Lacs Only) be deposited in the name of petitioner No.1 in fixed deposit, in any nationalized bank, for the further period of five years. The petitioner No.1 is entitled to receive monthly interest amount on fixed deposit amount.*

*(B) An amount of Rs.10,00,000/ (Rupees Ten Lacs Only) each be deposited in the name of minor petitioners No.2 and 3 in fixed deposit, in any nationalized bank till they attain their respective age of majority.*

*(C) An amount of Rs.5,00,000/ (Rupees Five Lacs Only) each be disbursed to petitioners No.4 and 5 by issuing account payee cheques, in their names.*

*(D) The remaining amount be disbursed to the petitioner No.1 alongwith entire interest by issuing account payee cheque, in her name.*

*5. Award be drawn after payment of deficit court fees stamp, if any."*

3. The appellant Insurance Company has filed an appeal against the order of the Tribunal and the Insurance Company has deposited amount of Rs.69,67,375/- towards the claim amount. The Insurance Company has challenged the award passed by the Tribunal on the ground of quantum of compensation, so also contributory negligence

of another vehicle. As regards the contributory negligence is concerned, it is for one of the respondent Insurance Company, to pay the compensation.

4. In view of the same, at this moment, the applicants are permitted to withdraw the amount of Rs.25,00,000/- (twenty five lac) from the amount deposited.

5. The Registry to remit the amount to the Tribunal and the Tribunal proportionately disburse the amount to all the applicants. Undertaking be taken from the major applicants to refund the amount withdrawn, in the event, the Insurance Company succeeds in the matter.

6. The First Appeal is **Admitted**.

**( ARUN R. PEDNEKER, J. )**

*vj gawade/-.*