

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

**CIVIL APPLICATION NO.8277 OF 2023
IN FAST/13819/2018**

**MAHADABAI @ MAHADIKABAI LAXMAN DEMGUNDE AND
ORS
VERSUS
NATION INSURANCE CO. LTD. THR THE BRANCH
MANAGER, AURANGABAD AND ORS**

...
Mr. S. S. Panale, Advocate for the Applicants.
Mr. V. R. Mundada, Advocate for Respondent No.1.

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

DATE : 11th AUGUST, 2023.

PER COURT:-

1. By this application, the applicants seek permission to withdraw the amount deposited by the respondent/Insurance Company in pursuance of the award passed by the Tribunal.

2. Mr. Panale, learned Advocate appearing for the applicants submits that earlier this Court allowed Civil Application No.3699/2019 filed by the applicants with similar prayers and vide order dated 15.04.2019 they are permitted to withdraw 40% of the compensation amount deposited by the Insurance Company subject to furnishing of solvent surety/security. However, the applicants could not comply the said condition because of poverty and other circumstances. He submits that the applicants are waiting for just compensation since 2016 towards accidental death of bread earner. He urges to release atleast 25% of the amount. For that the applicants are

ready to furnish undertaking to this Court instead of solvent surety/security as ordered earlier.

3. Mr. Mundada, learned Advocate appearing for the respondent/Insurance Company submits that on specific condition on behalf of the applicants that they shall furnish solvent surety/security, this Court had permitted partial withdrawal i.e. 40% of the compensation amount. He points out that the issue of false involvement of the vehicle raised in the appeal and that requires consideration. Therefore, he opposes the prayer.

4. Having considered the submissions of the learned Advocate appearing for the respective parties, it can be gathered that the accident occurred in the year 2016 and till this date the applicants have not received any amount towards compensation. True that there is dispute as regards to the involvement of vehicle, however, this Court by order dated 15.04.2019 permitted the applicants to withdraw amount subject to furnishing of solvent surety/security. The difficult demonstrated by the applicants cannot be ignored. However, the interest of appellant/Insurance Company also needs to be protected. Considering the aforesaid circumstances, following order is passed:-

ORDER

- a. Civil Application is allowed.
- b. The applicants are permitted to withdraw 25% of the compensation amount in lieu of the earlier order subject to furnishing of usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

c. Civil Application is allowed.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/August-2023