

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

**921 CIVIL APPLICATION NO.8316 OF 2021
IN FA/1538/2021**

ARUNA DATTA DEVKAR AND OTHERS
VERSUS
SHRIRAM GENERAL INSURANCE CO. LTD., THROUGH BRANCH
MANAGER, AURANGABAD AND ANOTHER

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Mr. Avinash Hande, Advocate for the applicants.
Mr. V.N. Upadhye, Advocate for respondent No.1.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 14.07.2023

ORDER:-

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 tractor involved in the accident was in fact replaced by the police machinery, since the complainant Nagnath, who had in fact lodged the report of the accident, stated initially that tractor No. MH-26-A-8126 was involved, but subsequently he conveniently changed the number of tractor by stating it as MH-26-K-7594.
4. However, it is extremely important to note that the Insurance Company had in fact examined the Investigating Officer who confirmed that the tractor bearing registration No. MH-26-K-7594 was involved in the accident and in the cross-

examination itself this witness of Insurance Company admitted that he had recorded the statements of eye witnesses, who told him the same registration number as aforesaid in respect of the same offending tractor. The learned Counsel for the Insurance Company also opposed the application on the ground that the tractor was carrying unauthorised passengers. However, the impugned judgment does not show such thing. Thus, it appears that the Insurance Company appears to have brought evidence against itself. However, the applicants No. 2 and 3, who are still minor, cannot be given any amount of compensation at this juncture till they attain majority.

5. In view of the same, only applicant Nos.1, 4 and 5 are permitted to withdraw their respective shares from the amount of compensation as determined by the learned Tribunal alongwith the interest accrued thereon till date, on usual undertaking to the satisfaction of the Registrar (Judicial) of this court.

6. The remaining amount falling to the shares of minor applicant Nos.2 and 3 be kept in FDR in any nationalized Bank on yearly renewal basis till they attain majority. They will be at liberty to claim withdrawal of the same after attaining majority.

7. The civil application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)