

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

60 CIVIL APPLICATION NO.16223 OF 2022
IN FA/1092/2021 WITH CA/6870/2021 IN FA/1092/2021

ARCHANA @ AARTI ROHIDAS DEOKATE AND ORS
VERSUS
CHOLAMANDALAM M.S. GENERAL INSURANCE CO. LTD., THR
ITS BRANCH MANAGER, AURANGABAD AND ORS

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Advocate for Applicants : Mr. S. T. Shelke
Advocate for Respondent No.2 : Mr. Rohit Dhongde h/f
Mr. S. S. Kulkarni

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**CORAM : SANDIPKUMAR C. MORE, J.
DATED : 16/01/2023.**

P. C. :

1. Heard rival submissions.
2. The applicants are seeking permission to withdraw the entire amount of compensation as deposited by the respondent No.1 insurance company. The aforesaid insurance company despite service failed to appear.
3. On the other hand, the learned counsel for respondent No.2 i.e. driver-cum-owner of the offending vehicle strongly opposed the application.
4. It appears that the insurance company has filed this appeal challenging the award on the grounds of non-involvement of offending vehicle, there was existence of contributory negligence on the part of deceased and grant of excessive compensation. However, the present applicant Nos.2 to 5 are still minors and therefore, their amounts cannot be allowed to be withdrawn. At the most amounts falling to the share of present applicant Nos.1, 6 and 7,

who are respective widow and mother of the deceased, can be allowed to be withdrawn. In view of the same, the application is partly allowed and the amounts of compensation falling to the share of present applicant Nos.1, 6 & 7 as per the apportionment done by the Tribunal be paid to them alongwith the proportionate accrued interest thereon till date.

5. The remaining amounts falling to the share of minor applicant Nos.2 to 5 be invested in FDR in any nationalized bank on yearly renewal basis till they attain majority. They will be at liberty to seek withdrawal of their amounts on attaining majority.

6. Civil application is disposed of accordingly.

(SANDIPKUMAR C. MORE, J.)