

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.8889 OF 2023
IN FA/2029/2022**

SUNITA NIVRUTTI MAHAJAN
VERSUS
NEW INDIA INSURANCE COMPANY

...
Mr. A. B. Parde h/f Mr. A. J. Patil, Advocate for the Applicant.
Mr. M. R. Deshmukh, Advocate for Respondent No.1.
...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 11th AUGUST, 2023.

PER COURT:-

1. By this application, the applicant seeks to withdraw the amount deposited by the respondent/Insurance Company in pursuance of the award passed by the Motor Accident Claims Tribunal, Jalgaon in M.A.C.P. No.349/2016.

2. The learned Advocate appearing for the applicant submits that the applicant is waiting for just compensation towards death of the bread earner Nivrutti Mahajan and, therefore, seeks permission to withdraw the amount deposited by the Insurance Company.

3. Mr. Deshmukh, learned Advocate appearing for the respondent/Insurance Company submits that the defence of breach of policy was raised before the Tribunal. It was brought on record that the driver of the Tanker was not holding valid license, as such, the insurer ought to have been exonerated.

4. Having considered the submissions advanced, apparently there is no dispute about accidental death of the deceased. Even the assessment of compensation is not seriously disputed. Ultimately, if the respondent/Insurance Company succeeds, the compensation amount can be recovered from the owner of the vehicle.

5. Mr. Deshmukh further points out that the Tribunal has proportionate the compensation amount amongst the claimants and share of the minors has been directed to be kept in Fixed Deposits.

6. In that view of the matter, the following order is passed:-

ORDER

- a. Civil Application is allowed.
- b. The compensation amount falling to the share of applicant no.1 and applicant nos.4 and 5 is permitted to be withdrawn on furnishing usual undertaking to the satisfaction of Registrar (Judicial) of this Court.
- c. The compensation amount falling to the share of minor claimants be kept in Fixed Deposit in any Nationalized Bank initially for a period of one year with renewal clause.
- d. Civil Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE