

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

**CIVIL APPLICATION NO.8043 OF 2023
IN
FIRST APPEAL (ST) NO.31493 OF 2022**

SMT. JYOTI W/O DEEPAK LOKHANDE AND ORS. ... Applicants

VERSUS

**UNITED INDIA INSURANCE COMPANY LTD THROUGH ITS BRANCH
MANAGER AND ANR. ... Respondents**

...
Advocate for Applicant: Mr. C. V. Bodkhe h/f Mr. R. V. Gore
Advocate for Respondent No.1: Mr. S. R. Bagal

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

DATE : 06.07.2023

PER COURT :

1. By this application, the claimants are seeking withdrawal of the amount of compensation deposited by the respondent no.1 – insurance company, who has filed appeal challenging the judgment and award dated 13/06/2022 passed by the Motor Accident Claims Tribunal, Osmanabad [for short ‘the Tribunal’] in MACP No.287/2014.

2. The learned Advocate appearing for the applicants submits that the Tribunal has already considered 50% negligence on the part of the deceased and passed meager award. He would submit that the claimants were dependent on the income of the deceased and they have no source of income for their livelihood.

3. Mr. Bagal, learned Advocate appearing for the respondent – insurance company opposes the application on the ground that the accident occurred due to sole negligence on the part of the deceased. Initially, the FIR was lodged against the deceased, however subsequently on the basis of the private complaint, the offences have been registered against respondent no.1. He would submit that the appellant – insurer has good grounds in the appeal.

4. Having considered the submission advanced, it can be noticed that the learned Tribunal has given adequate reasons for holding respondents liable to pay the compensation. The grounds as raised on behalf of the appellant can be taken into account at the time of final hearing of the appeal. However, at this stage, it would be appropriate to permit the applicants to withdraw 50% of the amount of compensation along with accrued interest thereon deposited by the appellant - insurer subject to usual undertaking to be furnished to the satisfaction of the Registrar (Judicial) of this Court.

5. Civil Application is disposed of accordingly.

(S. G. CHAPALGAONKAR, J.)