

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

**921 CIVIL APPLICATION NO.8355 OF 2023
IN FAST/7716/2023**

**MANOJ PARSHWANTHRAO CHOBHARKAR AND ORS
VERSUS
THE ORIENTAL INSURANCE CO.LTD THROUGH ITS BRANCH
MANAGER AND ORS**

...
Advocate for Applicants : Mr. P. C. Mayure
Advocate for Respondent No.1 : Mr. C. V. Dharurkar
....

**CORAM : SANDIPKUMAR C. MORE, J.
DATED : 08/08/2023.**

P. C. :

1. Heard rival submissions.
2. The applicants are seeking withdrawal of the entire amount of compensation, which has been deposited by the insurance company alongwith the interest accrued thereon. It appears that the compensation is awarded by the concerned learned Tribunal only to the present applicant Nos.1 & 2, who are parents of the deceased. The claim of the applicant No.3 has been dismissed.
3. The learned counsel for the insurance company strongly opposed the application on the ground that the deceased had also contributed in the occurrence of accident due to his negligence.
4. However, it seems that deceased was a pillion rider and offence was registered by the police machinery only against the driver of the tractor and trolley. Moreover, the claim has also been dismissed against the respondent No.5 i.e. owner of the motorcycle, who was driving the same. Therefore, keeping in mind the submission of contributory negligence, which is to be decided at

the time of final hearing, the applicant Nos.1 & 2 are permitted to withdraw 75% of the deposited amount of compensation alongwith the proportionate interest accrued thereon till date on usual undertaking to the satisfaction of the Registrar (Judicial) of this court and as per the apportion done by the learned Tribunal.

5. The remaining amount be kept in FDR in any nationalized Bank on yearly renewal basis till final disposal of this appeal.
6. The civil application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)