

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

**CIVIL APPLICATION NO. 9501 OF 2021 IN
FIRST APPEAL NO. 119 OF 2020**

Meera wd/o Nandkumar Avhale
and others

Applicants

Versus

Reliane General Insurance
Company, Mumbai & others

Respondents

Mr. R. R. Imale, advocate for the Applicants
Mr. S. S. Patil, advocate for Respondent No.1.
Mr. P. C. Mayure, advocate for Respondents No.2 & 3.

CORAM : SANDIPKUMAR C. MORE, J.

DATE : 04th January, 2023.

PC :

Heard rival submissions.

The applicants are claiming withdrawal of the entire balance amount of compensation as deposited by the appellant-Insurance Company.

The learned Counsel for the appellant-Insurance Company has strongly opposed the application on the ground that this is second withdrawal application and earlier the applicants were allowed to withdraw an amount of

Rs.12,00,000/- (Rs. Twelve lakhs) by this Court. He pointed out that the learned Tribunal wrongly applied the multiplier and also did not consider the contributory negligence to the extent of 30% of the deceased for not wearing a helmet.

However, the record shows that the deceased was 51 years of age at the time of accident and, therefore, the multiplier, applied by the learned Tribunal, of “11” seems to be proper as per the observations of Hon’ble Apex Court in the case of **Sarla Verma Vs. Delhi Transport Corporation & others**, 2009 AIR SC 3104. Even if we keep aside 30% of the deposited amount towards contributory negligence of the deceased for a while, then also, the applicants are entitled for withdrawal of roughly Rs.25,00,000/- (Rs. Twenty five lakhs). They have already withdrawn amount of Rs.12,00,000/- (Rs. Twelve lakhs) under the earlier orders of this Court. Considering this, the applicants can be allowed to withdraw further amount of Rs.13,00,000/- without any interest. However, the amount of compensation granted by the learned Tribunal to present applicants no. 2 and 3 is already withdrawn by them under the order dated 16.12.2020 of this

Court.

As such, now only applicant no.1 is permitted to withdraw the amount of Rs.13,00,000/- (Rs. Thirteen lakhs) from the balance amount of compensation, without any interest. The remaining amount be deposited in FDR in any Nationalised Bank on yearly renewal basis till final disposal of this appeal.

Civil Application is accordingly disposed of.

(SANDIPKUMAR C. MORE)
JUDGE

adb