

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

**906 CIVIL APPLICATION NO.7821 OF 2022
IN FA/1814/2020**

**SHABDARBEGUM ISMAIL KHAN PATHAN AND OTHERS
VERSUS
IFFCO-TOKIO GENERAL INSURANCE CO. LTD., LOCAL
OFFICE AT SHAHNOORMIYAN DARGA ROAD, AURANGABAD
AND OTHERS**

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Mr. Shailendra Gangakhedkar, Advocate for the applicants.
Mr. V.N. Upadhye, Advocate for respondent No.1.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 07.01.2023

ORDER:-

1. Heard rival submissions. The applicants are seeking permission to withdraw the entire amount of compensation as deposited by respondent No.1 – Insurance Company. The learned Counsel for the said Insurance Company strongly opposed the application on the ground that F.I.R. was in fact lodged after three months and that too against the unknown vehicle. However, thereafter involvement of the vehicle which was insured with the aforesaid Insurance Company was found. The learned Counsel for the Insurance Company further submits that though the owner of the said vehicle admitted the involvement of the vehicle in the accident, but it was a clear-cut case of collusion.

2. The learned Counsel for the applicants, on the contrary, pointed out that when the owner had accepted the involvement of the aforesaid vehicle, then the Insurance Company cannot take any contrary stand and the same is also not established.

3. In view of the same and at this juncture, the applicants are permitted to withdraw only 75 % of the awarded compensation from the respondent No.1 Insurance company, alongwith the proportionate accrued interest thereon till today, in equal proportion, on furnishing usual undertaking before the Registrar (Judicial) of this Court. The remaining amount be invested in F.D.R. in any Nationalized Bank on yearly renewal basis till final disposal of appeal.

4. Since the applicant Nos. 8 and 9 are old aged persons, the aforesaid amount of 75% alongwith the accrued interest be remitted to the concerned Motor Accident Claims Tribunal at Nanded and the applicants shall furnish usual undertaking to the satisfaction of said M.A.C.T. Nanded.

(SANDIPKUMAR C. MORE, J.)