

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

922 CIVIL APPLICATION NO.15937 OF 2022
IN FA/298/2021 WITH CA/10102/2019 IN FA/298/2021

SUSHAM TILAKRAM VARMA AND OTHERS
VERSUS
THE ORIENTAL INSURANCE CO. LTD., THRU ITS BRANCH
MANAGER, AURANGABAD AND OTHERS

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Advocate for Applicants : Mr. M. B. Ubale
Advocate for Respondent No.1 : Mr. D. P. Deshpande
Advocate for Respondent No.2 : Mr. S. B. Tarde

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**CORAM : SANDIPKUMAR C. MORE, J.
DATED : 31/01/2023.**

P. C. :

A) IN CIVIL APPLICATION NO.15937 OF 2022 :

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.
3. The learned counsel for the insurance company strongly opposed the application on the ground that despite there was charge against the driver of offending vehicle in respect of not possessing the valid driving license, the learned Tribunal held the insurance company liable for payment of compensation.
4. However, there are certain judgments of Hon'ble Apex Court that even in a fake license case the insurance company

needs to satisfy the award and then to recover from the owner. In view of the same, the applicants 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. The amount so withdrawn, be paid to the applicants as per the apportionment made by the learned Tribunal.

5. The remaining amount be invested in FDR in any nationalized bank on yearly renewal basis till final disposal of the appeal.

6. Call R & P.

7. The civil application is accordingly disposed of.

B) IN CIVIL APPLICATION NO.10102 OF 2019:

Since the appellant / insurance company has deposited entire amount of compensation, the application is made absolute in terms of prayer clause-B and disposed of.

(SANDIPKUMAR C. MORE, J.)