

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

68 CIVIL APPLICATION NO.815 OF 2023
IN FAST/626/2017

TAHREEM BAAZILA @ BAZELA SHAIKH RAUF
VERSUS
THE NEW INDIA INSURANCE CO. LTD., THR ITS BRANCH
MANAGER, AURANGABAD AND OTHERS

...
Advocate for Applicant : Mr. S. S. Dargad
Advocate for Respondent No.1 : Mr. M. M. Ambhore
....

**CORAM : SANDIPKUMAR C. MORE, J.
DATED : 06/02/2023.**

P. C. :

1. Heard.
2. The applicant is seeking withdrawal of the entire amount of compensation falling to her share as per the apportionment made by the learned Tribunal for pursuing higher studies.
3. The learned counsel for the insurance company opposed the application on the ground that the respondent No.6, who was the claimant No.1 in the original petition, has already withdrawn a huge amount of Rs.20,00,000/- by the end of 2018 itself. He further submits that there was contributory negligence of the deceased since there was collision between two vehicles.
4. The learned counsel for the applicant submits that there was no case of contributory case at all. At the most, it was the case of composite negligence but the deceased himself was not driving the vehicle and therefore, there could not have been any apportionment

of negligence. According to him, the learned Tribunal has rightly held the respondent nos.1 to 3 liable for paying compensation.

5. It appears that the respondent No.1 – insurance company has deposited an amount of Rs.67,00,000/- alongwith the interest, out of which the respondent No.6 / claimant No.1 has already withdrawn her share of roughly Rs.20,00,000/- as granted by this court. Now, the present applicant / claimant No.2 on getting major, is seeking withdrawal of her share, which roughly comes around Rs.20,00,000/- only. The office has raised objection that respondent No.4, who is also the beneficiary of award, is dead and his legal heirs are not brought on record. However, the applicant is claiming only her share, which roughly comes to Rs.20,00,000/-. Under such circumstances, the applicant, at this juncture is permitted to withdraw amount of Rs.10,00,000/- only out of the balance amount of compensation on usual undertaking to the satisfaction of the Registrar (Judicial) of this court.

6. The remaining amount be kept in FDR in any nationalized Bank on yearly renewal basis till final disposal of this appeal.

7. The civil application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)