

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

953 CIVIL APPLICATION NO.4860 OF 2023
IN FA/565/2017

SAYARABEE KADIRKHAN AND ORS
VERSUS
M/S NATIONAL INSURANCE CO LTD AURANGABAD AND ORS

...
Advocate for Applicants : Patnurkar Vinayak. D.
Advocate for Respondent no. 1 : Mr. V. N. Upadhye
...

CORAM : SANDIPKUMAR C. MORE, J.
DATE : 12TH APRIL, 2023

PER COURT :

1. Heard rival submissions.
2. The applicants are seeking withdrawal of the entire amount of compensation along with the interest accrued thereon, which has been deposited by the respondent - Insurance Company.
3. The learned Counsel for the Insurance Company strongly opposed the application on the ground that though the agent of Insurance Company had accepted the premium amount for the insurance policy of the offending vehicle but he did not remit the same to the Company and, therefore, the fact remained that the Insurance Company did not receive the premium amount. As such, for want of such premium amount, no liability can be saddled upon the Insurance Company.

4. However, the impugned judgment indicates that the Insurance Company did not file supportive documents to its contention that the policy was cancelled before the accident and it was duly intimated to the owner. Only one police complaint has been filed on record. In view of the same, the applicants at this stage are permitted to withdraw the 75% of the deposited amount along with the proportionate interest thereon till date on usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

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]
JUDGE