

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CAF NO.710/2023 IN FA NO.115/2020
Magma HDI General Insurance Company Limited

..VS..

Smt.Parvatabai wd/o Sk.Ashok Ingale and ors

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

.....
Shri S.A.Sahu, Counsel for Applicants/R-1 to 4.
Shri R.D.Bhuibhar, Counsel for the Appellant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 10/03/2023

1. By this application, respondent Nos.1 to 4 seek permission to withdraw compensation amount.

2. As per contentions of respondents, respondent No.1 has lost her husband in an accident and learned Judge below awarded compensation. The Insurance Company has deposited amount of compensation. Due to death of husband of respondent No.1, respondents have no source of income and they are in need of money. Though award is passed in their favour, they have not received any amount. Hence, they be permitted to be withdraw the amount.

3. The application is opposed by the Insurance Company on the ground that there is breach of policy. Admittedly, claimants are third party. Regarding breach of policy, it is between the Insurance Company and the owner of the vehicle. Third party cannot be deprived from receiving compensation amount.

4. In view of the above, it will be just and proper to permit respondent Nos.1 to 4 to withdraw 50% amount of compensation along with accrued interest thereon.

5. For reasons stated in the application, the application is **allowed**. Respondent Nos.1 to 4 are permitted to withdraw 50% of the deposited compensation amount with accrued interest thereon on furnishing usual undertaking. The amount be disbursed on due verification and identification.

6. The application is **disposed** of.

FA NO.115/2020

1. Record and proceedings are already received.
2. The appeal can be disposed of at admission stage itself as a short issue in involved.
3. List the appeal for final hearing, after service of respondent No.5, on admission board.

(URMILA JOSHI-PHALKE, J.)

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