



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

34 CIVIL APPLICATION NO. 1488 OF 2024
IN FA/4170/2023

DWARKABAI AVDHUTRAO GADE AND ANR
VERSUS
GORAKNATH RAMRAO KADAM AND ANR

...
Advocate for Applicants : Mr. M.V. Ghatge
Advocate for Respondent 2 : Mr. S.S. Rathi

...

CORAM : KISHORE C. SANT, J.

Dated : July 22, 2024

PER COURT :-

1. Heard the parties. This application is for withdrawal of amount of compensation deposited by the appellant/Insurance Company in this Court.
2. The learned advocate for the appellant/Insurance Company vehemently opposed the application, stating that in this case there was fundamental breach of terms of the policy. The deceased was travelling in goods vehicle and considering that the Insurance Company would not be held liable to pay the amount of compensation.
3. Considering the facts of the case, at the most, prima facie it appears to be case of direction of pay and recover to the Insurance Company. Considering that, this Court is inclined to allow the application. Hence, the order.

ORDER

- (i) The applicants/original claimants are entitled to withdraw 50% of the amount deposited by the Insurance Company in this Court along with accrued interest, subject to filing of usual undertaking. Further 25% of the amount deposited in this Court is allowed to be withdrawn by the applicants

along with accrued interest on furnishing solvent surety/security to the satisfaction of the learned Registrar Judicial of this Court. Remaining amount be invested in fixed deposit, to be renewed from time to time till the disposal of the appeal. With this, the application stands disposed of.

(KISHORE C. SANT, J.)

ssc/