



(1)

6ca5174.24

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

**6 CIVIL APPLICATION NO. 5174 OF 2024
IN FA/2367/2020**

SMITA SACHIN KHEDKAR AND ORS

....Applicant

VERSUS

**THE RELIANCE GENERAL INSURANCE CO. LTD., THR ITS
BRANCH MANAGAER AND ORS**

.....Respondent

Mr. S. S. Rathi, Advocate for the applicant

Mr. S. S. Patil, Advocate for respondent No.1

CORAM : KISHORE C. SANT, J.

DATE : 14th JUNE, 2024

P C.

1. This application is moved seeking withdrawal of Rs.10 lakhs out of the amount lying in this court i.e. deposited by the insurance company.

2. 50% of the amount is already permitted to be withdrawn by this court by order dated 08-04-2021 in Civil Application No. 4161/2021.

3. It is the case of the applicants now that the applicant No.2 has taken admission for 11th std Science in reputed college. For that admission she is required to pay fees of Rs.1,20,000/- for each year and Rs.4,50,000/- for preparation of NEET examination.

4. The application is vehemently opposed by the learned advocate for the insurance company. He submits that earlier 50% of the amount is permitted to be withdrawn only on the usual undertaking. There are good chances in the appeal, since the driver was not holding a license. He also points out the condition No.2-b of the operative order of the judgment dated 29-01-2020 passed by the learned Member, MACT, Aurangabad. The court has specifically directed that a notice shall be issued to respondent Nos. 1 and 2 and they shall be required to furnish necessary security for the entire amount which respondent No.3 has paid or would pay to the claimants as there is order of pay and recover. He thus, submits that if no amount is secured, insurance company would be at loss, if succeeds in the appeal.

As on today, respondent No.5 who is owner is reported to be dead and thus no security can be taken from its owner.

5. Learned advocate for the applicants however submits that claimants have also filed an appeal claiming enhancement in the compensation. He submits that applicant No.1 became widow at the age of 30 years. She Lost her husband, father-in-law and the applicant No.2 was injured in the same accident who is disabled. Thus, it is very difficult for her to arrange for security.

6. In the peculiar facts of this case, this court is inclined to allow the application. Hence, the following order:-

ORDER

a] The application is partly allowed.

b] The applicants are permitted to withdraw amount of Rs.10 lakhs with accrued interest on undertaking that in case, the appeal is allowed, she

(4)

6ca5174.24

would re-deposit the amount with interest within 12 weeks from the date judgment to the satisfaction of the learned Registrar (Judicial) of this court.

c] The application stands disposed off.

[KISHORE C. SANT, J.]

VishalK/6ca5174.24