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**THIS ORDER IS CORRECTED AND UPLOADED IN VIEW OF
THE ORDER DATED 02-08-2024.**

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

**910 CIVIL APPLICATION NO. 5229 OF 2024
IN FAST/3848/2024**

**SUNITA RADHESHYAM JAYSINGHANI AND ORS
....Applicants**

VERSUS

**DIVISIONAL OFFICE, MSRTC, DHULE
.....Respondent**

Mr. D. D. Pande, Advocate for applicants
Mr. D. S. Bagul, Advocate for respondent

CORAM : KISHORE C. SANT, J.

DATE : 14th JUNE, 2024

P. C.

1. Heard the learned advocates for the respective parties.

2. This application is filed seeking permission to withdraw the amount of compensation deposited by the insurance company in this court in the first appeal St. No. 3848/2024.

3. Learned Tribunal by way of impugned judgment and award had awarded compensation of Rs.8,83,000/-. While preferring the appeal the appellant insurance company has deposited the amount of Rs.10,83,069/- with interest in this court.

4. The application is opposed by the learned advocate for the respondent. He submits that there are two grounds involved in the appeal. First ground is of non-joinder of the parties as the insurance company of the motorcycle on which the deceased was riding is not added as party. Second ground is of contributory negligence.

5. This court has considered prima-facie observations and the reasoning by the trial court. The Court has held that there is no bar of non-joinder of the parties. So far as the contributory negligence is concerned, this court has held that no case is made out for contributory negligence.

6. Considering the above, this court is inclined to allow the **applicants** of the deceased to withdraw 75% of the amount with accrued interest on furnishing usual undertaking to the satisfaction of the learned Registrar (Judicial) of this court that in case appeal is allowed, **applicants** will re-deposit the amount in this court alongwith interest within 12 weeks from the date of judgment.

7. With this, the application stands allowed and disposed off.

[KISHORE C. SANT, J.]

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