



(1)

9ca5191.24

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

**9 CIVIL APPLICATION NO. 5191 OF 2024
IN FA/420/2024**

HIMMAT BHASKARRAO SHINDE AND ANR
....Applicants

VERSUS

**THE NEW INDIA ASSURANCE CO LTD BRANCH OFFICE DHULE
AND ANR**
.....Respondents

Mr. A. P. Yenegure, Advocate for the applicants
Mr. S. R. Bagul, Advocate for respondent No.1

CORAM : KISHORE C. SANT, J.

DATE : 14th JUNE, 2024

P C.

1. Heard the learned advocates for the parties.
2. This application is preferred seeking withdrawal of the amount deposited by the appellant insurance company in this court pursuant to the award dated 25-09-2023 passed by the learned MACT, Dhule in MACP No. 301/2012.
3. Learned advocate for the insurance company

vehemently opposed the application. He submits that in this case FIR was lodged one month after the death of the deceased. Vehicle is identified after one month after the accident. This creates doubts about the case of the claimants. The matter was decided after 11 years of filing of the same as the applicants did not pursue the matter effectively. He thus submits that if the amount is allowed to be withdrawn, it would be difficult to recover the said amount.

4. Learned advocate for the applicants however, submits that claimants are son and daughter who have lost their father. Also they lost their mother long back. He submits that there is no one to lookafter them and for this reason petition was not effectively prosecuted. There is no deliberate delay on their part. He, thus, prays to allow to withdraw the amount.

5. Considering the fact, this court is inclined to partly allowe the application in the following terms. Hence, the following order:-

ORDER

- a] The application is partly allowed.
- b] The applicants are entitled to withdraw 25% of the amount deposited with accrued interest on furnishing undertaking that in case, the appeal is allowed, they will re-deposit the amount with interest within 12 weeks from the date of judgment. Remaining 25% of the amount deposited with accrued interest shall be withdrawn on furnishing solvent surety/security to the satisfaction of the learned Registrar (Judicial) of this court. Remaining 50% amount shall be kept in fixed deposit in any nationalized bank to be renewed periodically till the decision of the appeal.
- c] Application stand disposed off.

[KISHORE C. SANT, J.]

(4)

9ca5191.24