



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 CIVIL APPLICATION NO. 6956 OF 2024
IN FAST/7645/2024

SANGEETA ASHOK PATIL AND ANOTHER
VERSUS
THE BRANCH MANAGER NATIONAL INSURANCE CO LTD AND OTHERS

...
Advocate for Applicants : Mr. Rathi Swapnil S.
Advocate for Respondent 1 : Mr. S.R. Bodade
...

CORAM : KISHORE C. SANT, J.

Dated : July 30, 2024

PER COURT :-

1. Heard. This application is for withdrawal of the amount deposited by the appellant/Insurance company in the office of this Court.
2. The application is strongly opposed by Mr. Bodade, learned advocate for Insurance Company. He submits that in the present case, there are grounds of breach of conditions as the vehicle was carrying about 22 passengers. He further submits that the applicants cannot be said to be dependents on the deceased as they are sisters of the deceased who were already married on the date of accident. However, considering the impugned judgment and order, this Court finds that the learned Trial Court has considered the submissions of excess passengers. It is discussed that the capacity of the vehicle was of 18 passengers and as per the allegations there were 22 passengers in the vehicle. Secondly, the Trial Court has considered that in the passengers, there were small children and also sucking child and considered that they cannot be said to be passengers. However, the learned advocate does not press the application on this aspect.

3. Since there are some grounds involved in this matter, this Court is inclined to allow the applicants to withdraw 50% of the amount deposited in this Court. Hence, the order.

ORDER

(i) The application is partly allowed. The applicants are permitted to withdraw 50% of the amount along with accrued interest deposited by the appellant Insurance Company in this Court on furnishing undertaking that in case the appellant succeeds, the applicants/claimants shall re-deposit the amount along with interest within 12 weeks from such judgment.

(ii) To facilitate to withdraw the amount, the office of this Court shall transfer the amount to the Motor Accidents Claims Tribunal, Latur. Motor Accidents Claims Tribunal, Latur on receipt of the amount, shall disburse the amount in equal proportion to all the applicants without requiring them to file formal application.

The application stands disposed of.

(KISHORE C. SANT, J.)

ssc/