



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

**1031 CIVIL APPLICATION NO. 8627 OF 2024
IN FA/1825/2024**

Sayyad Yunus Sayyad Saguji And Others

VERSUS

**The New India Assurnace Comapny Limited Through Its
Branch Manager And Anr**

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Advocate for Applicant : Mr. Ansari Asfia Nuzhat

Advocate for Respondents : Ms. Anagha V. Rotte

CORAM : S. G. CHAPALGAONKAR, J.

Dated : August 16, 2024

PER COURT :-

1. This is an application of the original claimants seeking withdrawal of the amount as deposited by the Insurance Company.
2. The claimants have lost their son in motor vehicular accident. They filed MACP No.463 of 2019 before the Tribunal. The Tribunal, after considering defence of the Insurance Company passed an award of Rs.11,59,392/-. The Insurance company has deposited Rs.14,02,924/- with the Registry of this Court.
3. Learned counsel appearing for the applicants submits that applicants are the parents. They have lost their young son in motor vehicular accident. The Tribunal after considering the rival submissions passed the award. The claimants are in need of money. Hence, seeks withdrawal of the amount.

4. Learned counsel appearing for the insurance company strenuously opposed the application on the ground that deceased was riding the motor cycle with two pillion rider and could not control the vehicle and as such invited the accident. According to the insurer, it is a case of contributory negligence of the deceased, who was not authorized to drive the motorcycle.

5. Having considered the submissions advanced, even assuming that insurer raised case of contributory negligence, the driver of the insured vehicle is not examined to bring home the averments in the written statement. Considering exigency of the claimants and fact that award is passed in their favour, it would be just and proper to permit them to withdraw 50% of the amount deposited with the registry of this Court on furnishing usual undertaking to the satisfaction of the Registrar (Judicial). Hence, the application is allowed. The claimants are permitted to withdraw 50% of the compensation amount on furnishing usual undertaking to the satisfaction of the Registrar Judicial of this Court. Civil application stands disposed off.

FA No. 1825 of 2024 :-

6. First appeal is **admitted**. Print and paper book dispensed with.

7. The parties shall be at liberty to move appeal for final disposal.

(S. G. CHAPALGAONKAR, J.)

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