



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

**978 CIVIL APPLICATION NO. 1188 OF 2024
IN FA/4016/2023 (withdrawal)**

Shahubai Bhanduas Chavhan And Ors

VERSUS

New India Assurance Company, Ltd., Through Its Divisional
Manager And Ors

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Advocate for Applicant : Mr. Ghode Madhav C
Advocate for Respondents : Mr. M. R. Deshmukh

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**WITH
CIVIL APPLICATION NO. 11915 OF 2023 (stay)
IN FA/4016/2023**

New India Assurance Co Ltd Though Its Divisional Manager

VERSUS

Shahubai Vishwanath Chavhan And Others

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Advocate for Applicant : Mr. Deshmukh Mohit R.

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : August 23, 2024

ORDER :-

CA No.1188/2024 :-

1. This is an application seeking withdrawal of the amount in pursuance of the award passed by the Tribunal under the provisions of section 166 of the Motor Vehicles Act.
2. Learned counsel appearing for the applicants submits that applicants are parents of the deceased, who was bachelor. He was bread winner of the family and supporting parents.

Tribunal passed the award considering the relevant factors. The applicants therefore urge to release the amount.

3. Mr. Deshmukh, learned counsel appearing for the Respondent-insurance company vehemently opposed the prayer contending that this is a case of false involvement. The accident was reported on the same day against unknown vehicle driver. Lateron, after six days, supplementary statement has been recorded to implicate the vehicle. He would invite attention of this Court to the observations as regards to evidence of so-called eye witness and submits that he is a got up witness.

4. Having considered the submissions advanced, it is apparent that deceased lost his life on account of motor vehicular accident. During the course of investigation, police authorities found that offending vehicle was insured with the New India Assurance Company. Although, evidence of eye witness is seriously challenged by the Insurance Company, Tribunal for the reasons recorded concluded that vehicle insured was an offending vehicle. Therefore, at this stage, it would be proper to permit the applicants/claimants to withdraw 50% of the amount deposited by the Insurance company, subject to following conditions :-

5. The applicants shall furnish an undertaking to the satisfaction of the Registrar (J) of this Court that in case, any adverse order is passed in appeal, they would re-deposit the amount alongwith interest as directed by this Court within a period of 12 weeks from the date of such award.

6. Civil application stands disposed off with the aforesaid directions. Rest of the amount be invested in fixed deposit till conclusion of the appeal.

CIVIL APPLICATION NO. 11916 OF 2023 (stay)

7. Heard Mr. Deshmukh, learned advocate appearing for the applicant.

8. He submits that entire amount as per the award passed by this Court is deposited with the Registry of this court.

9. Considering the submissions advanced, civil application is allowed in terms of prayer clause “B” and disposed off.

(S. G. CHAPALGAONKAR)
JUDGE

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