



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

**CIVIL APPLICATION NO. 396 OF 2025
IN FA/2330/2024**

**SHAIKH BABU ARNINSAB AND ANR
VERSUS
THE ORIENTAL INSURANCE CO LTD AND ANR**

...

Mr. Vaibhav Balajirao Dhage, Advocate for Applicants.

Mr. C. V. Dharurkar, Advocate for Respondent No.1.

...

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 17th JANUARY, 2025.**

P.C.:-

1. Heard learned Advocate appearing for the respective parties.
2. By this application, the applicants seek to withdraw the amount deposited by respondent/insurance company pursuance to the award dated 08.02.2023 passed by the Motor Accident Claims Tribunal, Nanded in M.A.C.P. No.27/2019.
3. The applicants/claimants had filed claim seeking compensation towards accidental death of deceased Feroz Babu Shaikh i.e. son of applicants. The claim was contested by appellant/insurance company on the ground of quantum and negligence, so also defence that driver of the insured Tempo was not holding driving license.
4. The learned Tribunal after considering pleadings and evidence on record, passed Award of Rs.8,33,000/- alongwith interest in favour of claimants. The respondent/insurer assailed aforesaid award before this Court in this Appeal mainly on the

ground that Tempo driver had no license, as such, there is breach of policy. Further, it would be case of composite negligence.

5. Considering submissions advanced, it is apparent that there is no dispute about accidental death of Feroz i.e. son of applicants. The offence was registered against Tempo driver. The Tribunal found him to be sole responsible for accident. The applicants being parents were dependent on his income. In this factual scenario, when award passed by the Tribunal in favour of claimants, they are certainly entitled for partial withdrawal of the amount during pendency of Appeal. Hence, following order:

ORDER

- a. Civil Application is partly allowed.
- b. The applicants are permitted to withdraw Rs.6,00,000/- out of deposited amount on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.
- c. The rest of the amount be kept in a Fixed Deposit for the term that offers a higher rate of interest.

(S. G. CHAPALGAONKAR)
JUDGE