



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

**96 CIVIL APPLICATION NO. 350 OF 2025
IN FA/200/2025**

Asha Eknah Vyanjane And Anr

VERSUS

**The New India Assurance Co Ltd Through Branch Manager
And Ors**

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Advocate for Applicant : Mr. Valse Vikrant Sopan

Advocate for Respondents : Mr.Abhijit Choudhari For R/1

Adv N D Kendre For R/2 And 3

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : March 07, 2025

PER COURT :-

1. Heard learned advocates appearing for the respective parties.

2. The applicants are seeking permission to withdraw the amount deposited by the respondent/insurance company in pursuance to the award dated 27.5.2024 in MACP No.205 of 2019. The claimants are dependents of deceased Eknath Sopan Venjane, who died in motor vehicular accident on 5.6.2019. Therefore, the claimants instituted the claim seeking compensation of Rs.50,90,000/- against owner and insurer of the motor cycle bearing registration No.MH-24/T-8377.

3. The Insurer opposed claim by denying all contentions in the claim petition. However, no specific defence appears to have been raised in the written statement either as to false implication of the vehicle or collusive claim between the

claimants and owner, driver of the vehicle. Tribunal, after evaluation of the evidence passed an award for Rs.19,52,000/- in favour of the claimants. Aggrieved insurer filed appeal carrying forward its defence, particularly, contending that vehicle is falsely involved. On prima facie consideration of material on record, it can be observed that defence of false implication or non-involvement was not pleaded before the Tribunal. In that view of the matter, claimants are certainly entitled for partial withdrawal of the amount deposited by the Insurance company. In the result the application is partly allowed. The claimants are permitted to withdraw 14.00 Lakh out of the amount deposited by the appellant/insurer on furnishing an undertaking to the satisfaction of the Registrar (Judicial) of this Court that they shall re-deposit the amount, in case adverse order is passed in appeal. CA stands disposed of.

(S. G. CHAPALGAONKAR, J.)

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