2025:BHC-AUG:11697



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

**21 CIVIL APPLICATION NO.2612 OF 2025**
**IN FA/3624/2019**

Surekha Late Yogesh Borse And Ors
*Versus*
The Director Of Insurance Government Of Maharashtra
…..
Shri. N.L. Chaudhari, Advocate for the Applicants
Shri. Akshay Kulkarni, Advocate for Respondent No.1
…..

**CORAM : NEERAJ P. DHOTE, J.**
**Dated : APRIL 21, 2025**

**PER COURT :-**

. This is the Application by the Original Claimants, who are the Respondent Nos.1 to 5 in the Appeal, for withdrawal of the entire amount deposited by the Appellant / Insurance Company in this Court.

2. The Appeal is filed by the Insurance Company against the Judgment and Award dated 17.08.2017 passed by the learned Motor Accident Claims Tribunal, Dhule in MACP No.798 of 2008, by which the amount of compensation is quantified to Rs.33,60,500/- with interest @ 7.5% Per Annum from 11.11.2008 till its realization. The Insurance Company has challenged the said Award on various grounds.

3. The learned Advocate for the Applicants / Claimants submits that the Claim Petition was of 2008 which was decided in 2017 and the Appeal of the Insurance Company is of 2019 and recently the Insurance Company has deposited the amount in this Court. He submits that the Applicants / Claimants are the Widow, Children, and the Parents of Deceased. He submits that the Application be allowed.

4. The Application is opposed by the learned Advocate for the Insurance Company. He tenders across the bar Reply of the Insurance Company. The same is taken on record and marked as Article – 'A' for the purpose of identification.

5. The learned Advocate for the Insurance Company submits that the Claim Petition was dismissed for default and it was restored after a considerable time. He submits that this Appeal has been filed mainly on the ground of contributory negligence and quantum. He submits that the Application may be rejected.

6. The Appeal is filed against the Judgment and Award passed in the Claim Petition under the Motor Vehicles Act. The Applicants / Legal Heirs are the dependents on Deceased. The Claim Petition filed in 2008, was decided in 2017. The Appeal is not yet admitted. Undisputedly, till date the Applicants have not withdrawn a single penny. Considering all the aspects, it would be appropriate to permit the Applicants to withdraw 75% of the amount deposited by the Insurance Company which is Rs.73,93,100/- (inclusive of the principal amount and interest component). The remaining amount should be kept in a Fixed Deposit Receipt. Hence, the following order.

ORDER

(i) The Application is partly allowed.

(ii) The Applicants are permitted to withdraw 75% of the amount deposited by the Insurance Company. Out of 75% amount, 50% is permitted to be withdrawn by the Applicants on furnishing Regular Undertaking before the Registrar (Judicial) of this Court and remaining

25% is allowed to be withdrawn on furnishing one Solvent Surety / Security to the satisfaction of the Registrar (Judicial) of this Court.

(iii) The apportionment of 75% amount be done as per the impugned Award.

(iv) The remaining amount be deposited in a Fixed Deposit in any Nationalized Bank, which would be renewed on yearly basis, till the Appeal is disposed off.

**( NEERAJ P. DHOTE, J. )**

GGP