



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

24 CIVIL APPLICATION NO. 8632 OF 2019
IN FIRST APPEAL NO. 2580 OF 2019

SWATI VIJAYKUMAR BHAGAT AND OTHERS
VERSUS
THE NEW INDIA ASSURANCE COMPANY LTD THROUGH ITS
BRANCH MANAGER AND ANOTHER

...
Mr. Fayaz K. Patel – Advocate for Applicants
Mr. M.M. Ambhore – Advocate for Respondent No.1
....

CORAM : SANDIPKUMAR C. MORE, J.
DATE : 17th February, 2025

PER COURT :

1. Heard rival submissions.
2. The applicants are seeking withdrawal of the entire amount of compensation, which has been deposited by the Insurance Company alongwith the interest accrued thereon.
3. Learned Counsel for the Insurance Company strongly opposed the application on the ground that, the offending vehicle shown to be involved in the accident was not at all involved. However, though it is claimed by the appellant – Insurance Company before the learned Tribunal that the said vehicle was not involved in the accident but to support that contention they did not examine any witness, such as driver or the owner of said vehicle. On the contrary, it appears that the investigating machinery had filed charge – sheet after due

investigation only against the driver of said vehicle. Under such circumstances certain part of compensation amount can be released since the appeal is not likely to be decided in the recent future.

4. The applicant – claimant No.2 is still minor and therefore, there is no question of releasing his share from the compensation. At the most 50% of the compensation falling to the respective shares of applicant Nos.1, 3 and 4 can be released at this stage. As such, the applicant No.1 is permitted to withdraw 50% of the compensation awarded to her by the learned Tribunal along with the proportionate interest accrued thereon till date, whereas applicant Nos.3 and 4 are permitted to withdraw their entire shares as per the impugned judgment alongwith the interest accrued thereon till date on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

5. The remaining amount be kept in F.D.R. in any nationalized Bank on yearly renewal basis till final disposal of this appeal.

6. Application is accordingly disposed of.

7. Call for record and proceeding in First Appeal No.2580 of 2019.

[SANDIPKUMAR C. MORE, J.]