



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

**955 CIVIL APPLICATION NO. 3969 OF 2025
IN FA/20/2025**

**KANTABAI PANDIT DHUMAL DIED THR LRS ARUN AND ORS
VERSUS
THE DIVISIONAL MANAGER THE NEW INDIA**

....

Mr. Ravindra Gore, Advocate for Applicants
Mr. M. R. Deshmukh, Advocate for Respondent

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 02.05.2025

PER COURT :-

- . Heard learned Advocates for respective parties.
2. Applicant is seeking permission to withdraw amount as deposited by respondent in pursuance to award dated 30.08.2024 passed by the Motor Accident Claims Tribunal, Aurangabad in MACP No.132/2018.
3. Applicant is the original claimant in MACP No.132 of 2018. She instituted a claim seeking compensation towards death of her son, who died in the motor vehicular accident dated 09.07.2017 involving insured truck bearing registration No. MH-20-DE-5275. The claim was contested by insurance company on the ground that the insurance policy was issued on the basis of premium paid through a cheque, which was later on dishonoured.

Eventually, the policy was cancelled, and such cancellation was communicated to the owner of the vehicle. Tribunal on evaluation of evidence, recorded a finding that although the notice was dispatched, it was not actually served, or there is no evidence of actual service of notice regarding cancellation. In this background, the Tribunal passed an order in the nature of pay and recovery.

4. Considering the submissions advanced and reasons as adopted by the Tribunal, *prima facie* claimant is entitled for partial withdrawal of the amount.

5. In that view of the matter, application is partly allowed. The applicant is permitted to withdraw 50% of the compensation amount as deposited by the respondent/insurance company on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court that she shall re-deposit the amount, in case, adverse order is passed in appeal.

[S. G. CHAPALGAONKAR, J.]

HRJadhav