



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

**CIVIL APPLICATION NO. 11068 OF 2017
IN
FIRST APPEAL NO. 836 OF 2009**

Urmila Shivdas Thakur and others .. Applicants

Versus

United India Insurance Co. Ltd.
Through its Divisional Manager
and others .. Respondents

Shri Digambar B. Shinde, Advocate for the Applicants.
Shri A. B. Gatne, Advocate for the Respondent No. 1.

**CORAM : SHAILESH P. BRAHME, J.
DATE : 21ST MARCH, 2025.**

FINAL ORDER :

. This application is for permission to withdraw an amount of Rs. 3,01,876/-.

2. Learned counsel for the applicants submits that for the reasons stated in the application, the applicants are entitled to withdraw the amount, which is deposited by the respondent/Insurance Company in this matter. There is exigency in the family of the applicants, due to death of the earning member of the family. Considering the need of the members of the family, it is desirable to allow the applicants to withdraw the amount.

3. Mr. Gatne, learned counsel appearing for the Insurance Company submits that initially it was agreed between the parties to hear the first appeal finally. The respondent No. 1 even submitted entire paper book. The respondent No. 3 is the owner, is yet to be served. It is submitted that despite bonafide efforts on the part of the insurance company, he could not be served. In the absence of his service, when the matter is to be heard finally, it would not be proper to allow the applicants to withdraw the amount. Learned counsel would also advert my attention to the points raised by the insurance company in the first appeal. The insurance cover note appears not only to be doubtful, but forged and identification of vehicle in question is also doubtful. Under these circumstances, the insurance company is not liable to pay the amount awarded by the Tribunal.

4. It appears from record that matter is to be heard finally. However, it could not be heard. There is paper book produced by the respondent No. 1/insurance company so that the final hearing could be possible. The respondent No. 3/Kedarnath R. Pal/owner of the vehicle is yet not served and, therefore, it was not be possible for this Court to hear this appeal finally immediately in the weeks to come. Under these circumstances I deem it appropriate to permit the applicants to withdraw the part of the amount. Ends of justice would be met if the applicants are permitted to withdraw Rs. 1,00,000/- (Rs. One

Lakh only) on furnishing usual undertaking to this Court that in the event the appeal is allowed and the applicants are directed to deposit the amount, they shall deposit the same immediately. The civil application is disposed of.

[SHAILESH P. BRAHME J.]

bsb/March 25