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

**CIVIL APPLICATION NO. 13969 OF 2024
IN FAST/16931/2024**

SHAMA HAIDAR SHAHA AND OTHERS

....Applicant

VERSUS

**THE NEW INDIAN ASSURANCE CO LTD THROUGH ITS BRANCH
MANAGER AND ORS**

.....Respondent

.....

Advocate for Applicant : Mr. Pramod Mayure C

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 3rd JANUARY, 2025.

P.C. :-

1. Heard learned advocate for applicants.
2. By this application, the applicant seeks permission to withdraw the amount deposited by the appellant/insurance company, in pursuance of the order passed by the Motor Accidents Claim Tribunal, Aurangabad, in M.A.C.P No.353 of 2022.
3. Indisputably, deceased Haider Shah died in the motor vehicular accident on 22.5.2022. The applicants/dependents of deceased filed M.A.C.P No. 353 of 2022. The Tribunal assessed income of the deceased at Rs. 15,000/- p.m. and passed an award amounting to Rs. 32,14,000/- alongwith interest accrued thereon @ 8% p.a. in favour of applicants/claimants. The compensation has been equally apportioned amongst the claimants. The appellant/insurer of the offending vehicle

assailed the award passed by Tribunal before this Court on the ground of quantum and contributory negligence.

4. Mr. Imale, learned advocate submits that the Tribunal has excessively assessed compensation, particularly, income of the deceased is wrongly considered @ Rs. 15,000/- p.m, which is inconsistent with the pleadings in the claim petition. He would further submit that it is a case of head-on collision between two vehicles. Deceased was driving auto-rickshaw. He has equally contributed in the cause of accident.

5. Taking into account the objections to the impugned award, it would be in the fitness of things to permit the claimants to withdraw 50% of the total amount deposited with this Court by the appellant, alongwith interest accrued thereon. Hence, the following order :-

O R D E R

[A] The application is partly allowed;

[B] Applicants/claimants are permitted to withdraw 50% of the compensation amount deposited by insurance company, subject to condition that in case the appeal is allowed, they shall refund/re-deposit the amount with the Registry of this Court within a period of six weeks alongwith interest @6% p.a.

[C] Civil application stands disposed of.

[S.G. CHAPALGAONKAR, J]

grt/-