



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

**CIVIL APPLICATION NO. 11962 OF 2025
IN FAST/20814/2022**

**KANCHAN VENKATESH NAGARGOJE AND OTHERS
VERSUS
NATIONAL INSURANCE COMPANY LTD. THROUGH ITS DIVISIONAL
MANAGER**

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Advocate for Applicant : Mr. Dargad Swapnil Sunilkumar
Advocate for Respondent No. 1 : Mr. Shrikrishna R. Dodade

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**CORAM : ABHAY J. MANTRI, J.
DATE : 07th NOVEMBER, 2025**

PER COURT :

1. Applicants/original claimants have moved this application to permit them to withdraw the amount deposited in this Court by the respondent no. 1/appellant – National Insurance Company. For which, the learned Advocate for the appellant – Insurance Company has objected.

2. Learned Advocate for the applicants submitted that the applicants are seeking withdrawal of the amount to the share of the applicant. 1- Kanchan and applicant no. 3 – Shilawati, and he is not pressing for the withdrawal of the amount to the share of minor Rajnandini, at this stage. Thus, he prayed for permission to withdraw the amount to the share of applicants no. 1 and 3.

3. On perusal of the impugned judgment, it appears that the

learned Judge partly allowed the application and awarded the compensation to the applicants. The learned Judge in clause no. 3 of the operative parts of the order apportioned the compensation amount among the claimants. The applicants, no. 1 and 3, are entitled to 60% and 10% shares, respectively, along with the interest accrued thereon. Applicant No. 2, who is a minor, is entitled to a 30% share, along with proportionate accrued interest thereon.

4. It also appears that the appellant/Insurance Company raised the ground that the driver of the vehicle was not holding a valid driving license for the vehicle at the time of the accident, and thereby committed a breach of the terms and conditions of the insurance policy. Therefore, the Insurance company is not liable to pay the compensation. It is a settled position of the law that the Insurance Company is liable to pay the said compensation and entitled to recover the same from the owner.

5. Moreover, the applicants are entitled to withdraw the compensation. They should not suffer due to a dispute regarding the payment of liability for compensation by the vehicle owner and the insurance company for breach of the policy. Apart from that, the Insurance Company is entitled to recover the amount from the owner if they are entitled.

6. In view of this, the application is partly allowed. The applicants, no. 1 and 3, are permitted to withdraw the amount to the extent of their share, along with proportionate accrued interest thereon, deposited by the appellant/Insurance Company in this Court.

7. The Registrar is directed to transmit the amount to the share of applicant nos. 1 and 3 in their bank account within a period of six weeks on their furnishing bank account details and undertaking to the registry.

(ABHAY J. MANTRI, J.)

SPC