



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

982 CIVIL APPLICATION NO. 13970 OF 2024  
IN FA/2110/2024

Kushawarta Mahadeo Tate And Ors

VERSUS

National Insurance Co Ltd Through Its Branch Manager And  
Ors

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Advocate for Applicant : Mr. K.N. Shermale a/w Sayyed Umair  
Pasha Abdul Quadar

Advocate for Respondent 1 : Mr. Atul B. Gatne

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 10, 2025

**PER COURT :-**

1. Heard learned advocates appearing for the respective parties.

2. The applicants are seeking withdrawal of the amount deposited by the appellant-insurance company in pursuance to the conditional order passed on stay application and in consonance with the award passed by the Tribunal under the provisions of the Motor Vehicles Act.

3. Undisputedly, deceased Mahadev lost life in motor-vehicular accident dated 3.2.2019. The Tribunal on assessment of the evidence arrived at the findings that the Tractor driver was at fault. Consequently, fixed the liability to pay compensation of Rs.21,69,940/- against the owner, driver and insurer of the tractor. Aggrieved insurer is before this

Court in the First Appeal and assailing the Award on the ground of self negligence of the deceased while driving his motorcycle and assessment of the compensation by taking income of the deceased @ Rs.17,857/- p.m.

4. In that view of the matter, when Award of the Tribunal is in favour of the claimants and when there is no dispute regarding accidental death of deceased, applicants are certainly entitled to withdraw part of the amount, subject to certain conditions. In that view of the matter, the application is partly **allowed**. The applicants are permitted to withdraw 50% amount of compensation deposited by the insurer on furnishing undertaking that they shall re-deposit the amount in case adverse order is passed in appeal alongwith interest @ 6% p.a. Undertaking to be filed within a period of six (6) weeks from today. Civil application is **disposed off**.

( S. G. CHAPALGAONKAR, J. )

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