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54-CA-15482-2023

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

54 CIVIL APPLICATION NO. 15482 OF 2023
IN FA/1588/2007

Vandana Madhukar Phadke (since Dead) Thr Lrs. Shucita Anand Phadke
And Ors

VERSUS

New India Assurance Co. Ltd., Thr Its Branch Manager, Jalgaon And Ors.

WITH

CIVIL APPLICATION NO. 10104 OF 2007
IN FA/1588/2007

WITH

CIVIL APPLICATION NO. 10103 OF 2007
IN FA/1587/2007

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Mr. Abhijit M. Phule, Advocate for Applicants.

Mr. V. r. Mundada, Advocate for Respondent No.1.

CORAM : KISHORE C. SANT, J.

DATE : 4th JULY 2025.

PC :-

1. Heard the parties.
2. This application is filed seeking withdrawal of remaining 50% of the amount lying in this Court. This Court has already permitted the applicants to withdraw 50% of the amount which was deposited by the

appellant in this Court. The total amount of compensation is Rs.5,57,000/- alongwith interest at the rate of Rs. 7.5 % p.a..

3. The application is opposed by the learned Advocate Mr. Mundada, appearing for Respondent No.1. He submits that the Respondent No.5, insured is yet to be served and inspite of various attempts, the said respondent is not served. He submits that the the appeal itself can be decided in the absence of Respondent No.5, and no order is necessary on the present application.

4. However, considering that the accident claim petition was filed in the year 1999, and though judgment was passed in favour of the applicants, they could not get the entire fruits of the order. Considering the amount involved, this Court is inclined to allow the application. The application is, therefore, allowed.

5. The applicants are permitted to withdraw the remaining amount lying in this Court along with interest, on giving undertaking that in the event the appeal is allowed, they shall re-deposit the amount within six weeks from the date of such judgment.

6. It is also made clear that in case the undertaking is flouted, the same shall call for action under the Contempt of Courts Act.

[KISHORE C. SANT, J.]