



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

**CIVIL APPLICATION NO. 409 OF 2025  
IN FAST/13777/2024**

**SAMINA KHAYAMODDIN SHAIKH MOMIN AND OTHERS  
VERSUS  
THE NEW INDIA ASSURANCE COMPNAY LTD THROUGH ITS  
MANAGER AND ORS**

...  
Mr. Avinash Angadrao Khande, Advocate for Applicants.  
Mr. Suraj R. Bagal, Advocate for Respondent No.1.  
...

**CORAM : S. G. CHAPALGAONKAR, J.  
DATED : 17<sup>th</sup> JANUARY, 2025.**

**P.C.:-**

1. Heard learned Advocate appearing for the respective parties.
2. By this application, applicants seek withdrawal of the amount deposited by respondent/insurance company in pursuance to the award dated 22.01.2024 passed by the Motor Accident Claims Tribunal, Nilanga in M.A.C.P. No.30/2018.
3. The applicants are original claimants. They had instituted claim under Section 166 of the Motor Vehicle Act raising claim for compesation towards death of Khayamoddin @ Khaum s/o Musa Shaikh, who died in motor vehicular accident involving insured vehicle.
4. The respondent/insurer contested claim on the ground of composite negligence and quantum.
5. The Tribunal after considering pleadings and evidence on record passed award for Rs.24,44,000/- against original respondent nos.2 and 3.

6. The aggrieved insurer approached this Court assailing award on the ground of quantum and negligence. This Court directed respondent/insurer to deposit entire awarded amount. Consequently, Rs.38,33,991/- has been deposited with the Registry of this Court. The applicants are seeking permission to withdraw the amount.

7. Having considered submissions advanced, it is apparent that death of Khayamoddin in accident involving insured vehicle is not disputed. The dependency of claimants is also not been disputed. The ground as to the composite negligence and quantum is only set into motion in this Appeal. In that view of the matter, taking into account the reasoning as adopted by the Tribunal, the claimants are certainly entitled for partial withdrawal of the compensation amount. Hence, following order:

**ORDER**

- a. Civil Application is partly allowed.
- b. The applicants are permitted to withdraw Rs.20,00,000/- on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.
- c. The disbursement of the amount shall be in the proportion with the apportionment made under the award passed by the Tribunal.
- d. The rest of the amount be kept in a Fixed Deposit for the term that offers a higher rate of interest.

**(S. G. CHAPALGAONKAR)**  
**JUDGE**

Devendra/January-2025