



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

**69 CIVIL APPLICATION NO. 13700 OF 2024
IN FAST/2806/2024**

SUDAM BAPURAO DHONE AND ORS
VERSUS
NATIONAL INSURANCE CO LTD AND ORS

...
Advocate for Applicants : Mr. S.R. Bagal
h/f. Mr. Bharat N. Gadegaonkar
Advocate for Respondent No. 1 : Mr. A. B. Gatne

...
CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 23, 2025

PER COURT :-

1. Heard learned Advocates appearing for respective parties.

2. The applicants are seeking permission to withdraw amount deposited by respondent no. 1 / Insurance Company in pursuance to the award dated 21.07.2023, passed by Motor Accident Claim Tribunal, Parbhani, in MACP No. 10/2018. The applicants are original claimants. They instituted claim under Section 166 of Motor Vehicle Act, seeking compensation towards accidental death of son.

3. Respondent no. 1 / Insurer contested the claim alleging that it is a case of false implication. Although accident took place on 21.09.2017, FIR is lodged on 05.11.2017 based on statement dated 19.10.2017. Mr. Gatne, learned Advocate appearing for the Insurance Company endeavors to contend that very same motor cycle has been falsely implicated in four other accident claims filed before Tribunal at Parbhani. He submits

that in one of the such claim, Tribunal exonerated insurer observing that it is a case of false implication.

4. Per contra, Mr. Bagal, learned Advocate appearing for the claimants submits that no evidence in support of defence is brought on record on behalf of insurer before the Tribunal and contentions raised in appeal are without any substance.

3. Be that as it may, the tribunal on the basis of the evidence that was tendered into service accepted claimant's case that accident occurred due to involvement of insured vehicle, eventually passed award. There is no dispute that the young son of claimant nos. 1 and 2, lost life in the motor vehicle accident. The claimants are, therefore, certainly entitled for partial withdrawal of amount, at the same time, interest of appellant/Insurance Company needs to be protected. Hence, following order is passed :

ORDER

- i. The application is partly allowed.
- ii. The claimants / applicants are permitted to withdraw Rs. 6,00,000/- (Rupees six lakh) out the deposited compensation amount on furnishing usual undertaking to the satisfaction of Registrar that they shall redeposit amount, in case the adverse order is passed in appeal.
- iii. In addition to the aforesaid amount, the claimants are further permitted to withdraw

amount of Rs. 3,00,000/- (Rupees three lakh)
on furnishing solvent surety / security to the
satisfaction of Registrar (Judicial) of this
Court.

iv. The rest of the amount be kept in fixed
deposit in any Nationalized Bank till disposal
of this appeal no further application seeking
withdrawal of the amount shall be entertained
in behalf of applicants till disposal of first
appeal.

(S. G. CHAPALGAONKAR)
JUDGE

spc-