

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.4362 OF 2020
IN FIRST APPEAL NO.1967 OF 2019

Kondyabai w/o.Prakash Gawali
& another.

.. APPLICANTS

VERSUS

TATA AIG General Insurance
Company Ltd.

.. RESPONDENT

...
Mr.S.N.Janakwade, Advocate for the
applicants.

Mr.R.H.Dahat, Advocate for the respondent.

...

CORAM : V.L.ACHLIYA,J.

DATE : 16.07.2020

P.C.

1] In view of the extreme urgency expressed by the applicants, the matter is taken up through video conferencing.

2] The applicants-claimants i.e. respondents in Appeal have moved this application seeking further withdrawal of amount for the reasons set out in detail in the application.

3] In brief, it is the contention of

the learned counsel for the applicants that vide order dated 20th December, 2019 passed in Civil Application No.14842 of 2019, the applicants were permitted to withdraw the amount of Rs.1,50,000/- and liberty was granted to move application seeking further withdrawal of amount if marriage of applicant no.2 is settled. It is submitted that marriage of applicant no.2 is settled and same is going to be solemnized on 26.07.2020. In order to meet expenses of marriage, the applicants have moved this application seeking withdrawal of balance amount lying invested in the Court.

4] Learned counsel for the respondent opposed the application with contention that appellant has good case to succeed in Appeal. The deceased was gratuitous passenger travelling in goods vehicle and risk of passenger travelling was not covered under the terms of policy. It is further submitted that in the event of appeal is allowed, it will be difficult to recover the amount.

5] On due consideration of the submissions advanced in the light of

challenge raised in the appeal and cause assigned for seeking further withdrawal of amount, I am inclined to allow the application to the extent of withdrawal of further amount of Rs.50,000/- for the purpose mentioned in the application. The amount of Rs.50,000/- be paid to the applicant no.2 i.e. Swati w/o.Prakash Gawali by account payee cheque or through NEFT or RTGS, on furnishing undertaking that in the event appeal is allowed, the applicants shall repay the amount. The withdrawal of amount is subject to outcome of the Appeal. On the appellant succeed in appeal, the applicants-claimants will have to repay the amount.

6] Civil Application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

DDC