

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

**CIVIL APPLICATION NO.5412 OF 2021
IN
FIRST APPEAL ST. NO.1343 OF 2021
(Mahananda w/o. Ashok Ambad and ors.
Vs.
Reliance General Insurance Co. Ltd. and anr.)**

Mr.P.C.Mayure, Advocate for applicants
Mr.S.G.Chapalgaonkar, AGP for respondent no.1

**CORAM : R.G. AVACHAT, J.
DATE : JULY 14, 2021**

ORDER :-

Heard.

2. Learned counsel for respondent no.1 - insurance company submits that the deceased was proceeding on wrong side of the road. It was the deceased who dashed against the oncoming truck. As such, it is a case of contributory negligence. The deceased was a pensioner. The Tribunal has still granted 30% addition on account of future prospects, which is not permissible in law. As such, according to learned counsel, the appellant-insurance company has a very good case in appeal.

3. Mr.Mayure, learned counsel for the applicant, submits that claimant no.4 has died after the award was passed. The other

claimants claimed to be the legal representatives of the deceased claimant no.4. It is, however, informed that the deceased has two more sons. They are more than 50 years of age. Since they are Class-I heirs of the deceased, they too, would become entitled to inherit the estate of the deceased which is, for the present, in the form of award in their favour.

4. Perused the impugned award. Considering the submissions advanced by learned counsel for the parties, the applicants are permitted to withdraw 50% of the amount awarded to their share by the Tribunal, with interest accrued thereon, on furnishing usual undertaking to the satisfaction of learned Registrar (Judicial) of this court.

5. The application stands disposed of accordingly.

[R.G. AVACHAT, J.]

KBP