

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

**CIVIL APPLICATION NO. 12458 OF 2021
IN
FIRST APPEAL (ST) NO. 7440 OF 2021**

Padamasing Gulabsing Girase and Another ..APPLICANTS

VERSUS

Balasaheb Tukaram Thorat and Others ..RESPONDENTS

....

Mr. M.K. Bhosale, Advocate h/f Mr. A.S. Sawant, Advocate for applicants

Mr. D.G. Nagode, Advocate for respondent nos. 1 and 2

Mr. A.G. Choudhari, Advocate for respondent no.5

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CORAM : R.G. AVACHAT, J.

DATED : 24th NOVEMBER, 2021

PER COURT :

1. Heard.

2. Learned counsel for Respondent No.5 - insurance company would submit that it is a case of composite negligence. However, the entire liability is saddled on the owner and insurer of the luxury bus only. Since there was head on collusion between the two vehicles, it is a case of *inter se* liability between the owner and insurer of both the offending vehicles.

3. The deceased was one of the passengers of one of the offending vehicles. His legal representatives cannot be deprived of amount of compensation, even pending the appeal.

4. In the fitness of things, the applicants are permitted to withdraw 75% of the amount in deposit as against usual undertaking to the satisfaction of the Registrar (Judicial) of this Court. Balance amount be invested in fixed deposit with any of the nationalised bank, pending the appeal. Civil application stands disposed of accordingly.

(R.G. AVACHAT, J.)

SSD