

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 275 OF 2019
WITH
CIVIL APPLICATION NO. 276 OF 2019
IN
FIRST APPEAL (ST.) NO. 22555 OF 2018**

New India Assurance Co. Ltd. Appellant/Applicant
v/s.
Veena Vaisham Jadhav and ors. Respondents

**WITH
INTERIM APPLICATION (ST.) NO. 5973 OF 2021
IN
FIRST APPEAL (ST.) NO. 22555 OF 2018**

Veena Vaisham Jadhav and ors. Applicants
In the matter between :-
New India Assurance Co. Ltd. Appellant
v/s.
Veena Vaisham Jadhav and ors. Respondents

Ms. Varsha Chavan for the Applicants / Respondent Nos.1 to 3.
Mr. Devendranath S. Joshi for the Appellant.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 07th JUNE, 2021.

P. C. :-

CIVIL APPLICATION NO. 275 OF 2019 :-

. With consent, delay in filing the Appeal is condoned and the Appeal is ordered to be registered. Civil Application No.275/2019 stands disposed of.

FIRST APPEAL (ST.) NO. 22555 OF 2018 :-

2. Ms. Varsha Chavan, learned counsel waives service on behalf of Respondent Nos.1 to 3. Issue notice to Respondent No.4, returnable on **19/07/2021**. Private service is permitted.

CIVIL APPLICATION NO. 276 OF 2019 :-

3. Mr. D.S. Joshi, learned counsel for the Appellant – Insurance Company states that the entire amount of compensation along with the interest accrued thereon is deposited before the MACT, Mumbai. In view of the said statement, the execution and implementation of the impugned judgment dated 04/08/2017, is stayed till the disposal of the Appeal.

4. Civil Application No.276/2019 stands disposed of.

INTERIM APPLICATION (ST.) NO.5973 OF 2021 :-

5. The Respondents/Claimants have filed this Application for withdrawal of compensation. Mr. D.S. Joshi, learned counsel for Appellant objects to the said Application mainly on the ground that the accident was caused due to rash and negligent driving of the deceased.

6. The Respondent No.2 is a minor and hence, at this stage, I am not inclined to allow this Respondent/Claimant to withdraw any amount on his behalf. Having gone through the records and after considering the reasons stated in the impugned judgment as well as grounds raised in the Appeal memo, an amount of Rs.5,00,000/- is ordered to be paid to the Respondent No.3 – Sitabai Ramchandra Jadhav and an amount of Rs.10,00,000/- is ordered to be paid to the Respondent No.1 – Veena Vaisham Jadhav, subject to furnishing an undertaking before the Claims Tribunal that the said amount will be refunded with interest in the event the Appellant succeeds in the Appeal.

7. Interim Application (St.) No.5973/2021 stands disposed of accordingly.

(SMT. ANUJA PRABHUDESSAI, J.)