

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

922 CIVIL APPLICATION NO.5466 OF 2021
IN FA/1770/2020

DILIP SULTANJI VARTALE AND ORS
VERSUS
SHRIRAM GENERAL INSURANCE COMPANY LTD. THR ITS DIVISIONAL
MANAGER AND ANOTHER

...
Advocate for Applicants : Mr. P.N. Kalani
Advocate for respondent No.1 : Mr. S. S. Dargad h/f Mr. S.G.
Chapalgaonkar
.....

CORAM : S. G. DIGE, J.
DATE : 30.09.2022

PER COURT :-

Heard learned counsel for the applicants and learned counsel for the respondents. Learned counsel for the applicants submits that respondents have challenged the judgment and award passed by the Member, Motor Accident Claims Tribunal Nanded and has deposited entire award amount before this Court. Wife of the applicant No.1 and mother of applicant Nos. 2 and 3 died in the said accident. After the death of deceased, the applicants are living miserable life and they are not able to maintain themselves. The applicants have raised loan amount from the private person for the education purpose and to satisfy domestic expenses as well as medical treatment. Hence requested to allow the application.

2. It is contention of learned counsel for the respondents that deceased was traveling in the goods vehicle. There was breach of terms of insurance policy. In spite of that the Tribunal has passed pay and recovery order which is challenged by the respondents before this Court. Hence, applicants are not entitled for compensation from the insurance company and requested to dismiss the application.

3. I have heard both the learned counsel. Admittedly wife of the applicant No.1 and mother of applicant No. 2 and 3 is died in the accident. Applicant no.1 has raised the loan to satisfy the domestic expenses. He needs the amount for daily expenses and for education purpose of applicant Nos. 2 and 3. The Tribunal has passed pay and recovery order against the respondents. In view of above I pass the following order

ORDER

- (i) Application is allowed.
- (ii) Applicants are permitted to withdraw 25% amount along with accrued interest out of deposited amount on furnishing undertaking.

**(S.G. DIGE,)
JUDGE**