

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

23 CIVIL APPLICATION NO.9702 OF 2022
IN FIRST APPEAL NO.363 OF 2022

...
LAXIMIKANTA VENKATESH KAMGHANTE & OTHERS
VERSUS
CHOLAMANDALAM M.S.GENERAL INSURANCE COMPANY
LTD. & OTHERS

...
Advocate for the applicants : Mr.B.N.Gadegaonkar
Advocate for respondent no.1 : Mr.S.G.Chapalgaonkar

...
CORAM : S.G.DIGE, J.
DATE : 04.07.2022

P.C. :

1] Heard the learned counsel for the applicants
and the learned counsel for respondent no.1.

2] The learned counsel for the applicants submits
that the learned Motor Accident Claims Tribunal, Nanded
has partly allowed the claim petition filed by the applicants
and directed the respondents jointly and severally to pay
compensation of Rs.49,45,880/- with interest @ 7.5% p.a.
from the date of petition till it's realization of the entire
amount. The Insurance Company i.e. respondent no.1 has
challenged the order passed by the learned Tribunal and

has deposited the amount before this Court. The applicants are the wife, daughter and sons of the deceased Venkatesh, who died in accident. The deceased was the bread earner for the entire family. At present, the applicants have no source of income, hence, they are facing hard days. Despite grant of compensation by the learned Tribunal way back in the month of December, 2021, till the date applicants have not received any amount, hence, requested to allow the application.

3] The learned counsel for respondent no.1 submits that respondent no.1 has the impugned order of the learned Tribunal. There are various grounds raised in the appeal. For instance, the accident was occurred on 04.01.2018 whereas the First Information Report was lodged on 13.01.2018. There is 9 days delay in lodging the FIR. The alleged accident was witnessed by the brother of claimant no.1 only and not by other persons. It creates doubt about happening of accident. If the amount is withdrawn by the applicants and appellant succeeds in the

appeal, it would be difficult for respondent no.1 to recover the amount, hence, requested to dismiss the application.

4] Heard both the learned counsel. The applicants are the wife, daughter and sons of the deceased Venkatesh, who was Karta of the family. There is no other karta member in the family of the applicants. The applicants are facing hardships due to paucity of money. Respondent no.1 has impugned the judgment and award of the learned Tribunal on various grounds. The issue raised by respondent no.1 in appeal can be decided at the time of deciding the appeal. The entire compensation amount is deposited by respondent no.1 before this Court. As the applicants are in need of money and they are the heirs and legal representatives of the deceased, they are facing financial crisis, hence, in my view, they are entitled to get 50% amount out of the deposited amount and pass the following order:

ORDER

i] The application is allowed. The applicants are

permitted to withdraw 25% amount out of total deposited amount by submitting usual undertaking before the learned Registrar [Judicial] of this Court and the applicants are also permitted to withdraw 25% amount out of total deposited amount after furnishing solvent security to the satisfaction of the learned Registrar [Judicial] of this Court.

ii] Civil Application is disposed of accordingly.

iii] By consent of both the learned counsel, the matter be heard at the admission stage on 12th September, 2022.

[S.G.DIGE]
JUDGE

DDC