

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 11054 OF 2022
IN FIRST APPEAL NO. 1056 OF 2022

SHARDA W/O SUDHAKAR WAGHMARE AND OTHERS
VERSUS
M/S CHOLAMANDALAM M S G I C LTD. THR ITS BRANCH
MANAGER AURANGABAD AND ANOTHER

...
Advocate for Applicants : Mr. P.S. Agrawal
Advocate for Respondent No.1 : Mr. S.S. Dargad h/f.
Mr. S.G. Chapalgaonkar

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CORAM : S.G. DIGE, J.
DATE : 28th July, 2022

ORDER :

. Heard learned Counsel for the applicants and learned Counsel for respondent No.1.

2. Learned Counsel for applicants submits that, deceased was husband of applicant No.1 and father of applicant Nos.2 to 4. Applicant No.5 is father of deceased. Deceased Sudhakar was a sole Karta of family. There is no source of income to the applicants. They are facing problems in daily expenses. Hence, requires amount for

education of applicant Nos.2 to 4 and medical purpose of applicant No.5.

3. Learned Counsel for respondent No.1 objected to allow the application on the ground that, respondent No.1 has challenged the order passed by learned Member of Motor Accident Claim Tribunal, Hingoli on various grounds. One of the ground is that, the Tribunal awarded higher compensation to applicants. It is contention of respondent No.1 that, there was contributory negligence of the deceased in said accident. Hence, applicants cannot be allowed to withdraw the amount and requested to dismiss the application.

4. I have heard both learned Counsel. Learned Counsel for respondent No.1 alleges that, there was contributory negligence of the deceased. The applicants needed amount for education of applicant Nos.2 to 4 and medical treatment of applicant No.5 and also for their day to day activities. Hence, I pass the following order :-

ORDER

- a) Application is allowed.
- b) Applicants are permitted to withdraw 50% amount out of deposited amount on furnishing usual undertaking before learned Registrar (Judicial).
- c) The Civil Application is disposed of.

[S.G. DIGE, J.]