

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

**911 CIVIL APPLICATION NO.14126 OF 2022
IN FA/1057/2022**

GANGASAGAR SUNIL KUTE AND OTHERS
VERSUS
NEW INDIA INSURANCE COMPANY THROUGH ITS BRANCH
MANAGER AND OTHERS

...
Advocate for Applicants : Mr.Shirsat Suhas R.
Advocate for Respondent No.1 : Mr.S.G.Chapalgaonkar
...

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

DATE : 20th October, 2022

PER COURT :-

1. Heard learned counsel for the applicants and learned counsel for respondent No.1.
2. Learned counsel for the applicants submits that deceased was Karta of the applicants' family. Applicants' have no source of income. Applicants need amount for their day-to-day activities. Due to shortage of funds, the applicants could not celebrate any festival. Hence, requested to allow the application.
3. Learned counsel for respondent No.1 submits that the Motor Accident Claims Tribunal (for short 'the Tribunal) in its order has observed that there is no negligence on the part of Driver of the Bolero Jeep. The Bolero Jeep is insured with

Respondent No.1 Insurance Company. In spite of no negligence of the Jeep Driver, the Tribunal has fastened the liability on the Jeep Driver and respondent No.1 Insurance Company i.e. appellant, which is illegal. Hence, respondent No.1 is not liable to pay any compensation and requested to dismiss the application.

4. I have heard both the learned counsel. Karta of the applicants' family is died in the accident. They have no source of income. They need the amount for their daily expenses. The Tribunal has fastened liability on respondent No.1 alongwith other Insurance Company. Liability of respondent No.1 can be decided at the time of final hearing.

5. Both the learned counsel submits that the matter be fixed for final hearing. If within reasonable time, matter is not heard finally, the applicants – original claimants are permitted to file fresh application for withdrawal of amount.

6. In view of above, I pass the following order :

ORDER

(i) Application is allowed.

(ii) Applicants are permitted to withdraw 25% amount alongwith accrued interest thereon out of the deposited amount on furnishing undertaking.

(iii) Amount of 25% alongwith accrued interest thereon, which applicants are permitted to withdraw, be transmitted to Motor Accident Claims Tribunal, Beed. The applicants shall furnish undertaking before the Tribunal.

(iv) Connected First Appeal No.1273 of 2022 be tagged with this appeal.

(v) Application is disposed of.

(S. G. DIGE)
JUDGE

SPT