

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

16 CIVIL APPLICATION NO.14344 OF 2022
IN FIRST APPEAL NO.1409 OF 2022

HIRABAI RAMLAL SHELAR & ANOTHER
VERSUS
THE NEW INDIA INSURANCE CORRECTED ASSURANCE
CO.LTD.

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Advocate for the applicants : Mr.A.R.Borulkar
Advocate for Respondent no.1 : Mr.S.G.Chapalgaonkar

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CORAM : S.G.DIGE, J.

DATE : 10.10.2022

P.C. :

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

2] The learned counsel for the applicants submits that respondent no.1 has challenged the judgment and award passed by the Tribunal and has deposited the entire award amount before this Court. The applicants are the legal heirs of the deceased. They need amount for daily expenses. They are facing starvation due to financial crisis, hence, requested to allow the present application.

3] It is the contention of the learned counsel for respondent no.1 that though in the claim petition the income of the deceased was shown as Rs.11,000/- per

month, the Tribunal has considered more than Rs.13,000/- per month income of the deceased; it is exorbitant. No documentary evidence is produced on record to show the income of the deceased on which basis the calculations are done and this fact is challenged by respondent no.1 before this Court by way of this appeal, hence, requested to dismiss the application.

4] I have heard both learned counsel. The applicants needed the amount for daily expenses. The issue raised in the appeal is only regarding income of the deceased considered by the Tribunal on higher side.

5] In view of this, I pass the following order:-

ORDER

i] The application is allowed.

ii] The applicants are permitted to withdraw 50% amount along with accrued interest thereon, out of deposited amount, on furnishing undertaking.

iii] Civil Application is disposed of accordingly.

**[S.G.DIGE]
JUDGE**