

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

1014 CIVIL APPLICATION NO.14489 OF 2022
IN FIRST APPEAL NO. 20857 OF 2022

...

**PATHAN RAJIYABEGUM AFROZ KHAND & OTHERS
VERSUS
CHOLA MANDALAM MS GENERAL INSURANCE COMPANY
LTD. & OTHERS**

...

Advocate for the applicants : Mr.P.C.Mayure
Advocate for respondent no.1 : Mr.S.S.Dargad h/f.
Mr.S.G.Chapalgaonkar

...

CORAM : S.G.DIGE, J.
DATE : 13.10.2022

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 applicant no.1 is widow, applicant nos.2 to 4 are the children and applicant nos. 5 and 6 are the parents of the deceased. After the death of the deceased, they are facing great financial difficulty. The learned counsel further submits that the deceased was the karta of the family of the applicants. Due to Covid-19, the applicants are facing great economical crises. The applicants had taken loan from the relatives, hence, requested to allow the application.

3] The learned counsel for the respondent no.1 submits that the accident was occurred due to sole negligence of the auto rickshaw wherein the deceased was driving the said auto rickshaw. The Tribunal has not considered this fact. The auto rickshaw driver dashed to the stationed truck from the backside so there is no liability of the insurance of truck is arises. The compensation awarded by the Tribunal is excessive.

4] I have heard both the learned counsel. The deceased was the karta of the family of the applicants. Due to COVID-19, the applicants are facing great economical crises. The applicants had taken loan from the relatives. After the death of the deceased, they are facing great financial difficulty, hence, 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 on furnishing undertaking.
- iii] Civil Application is disposed of accordingly.

[S.G.DIGE]
JUDGE