

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

930 CIVIL APPLICATION NO.13435 OF 2018
IN FIRST APPEAL NO.3328 OF 2018

ASHABAI GIRDHAR TELE & OTHERS
VERSUS
IFFCO TOKIO GENERAL INSURANCE CO. LTD.,
AURANGABAD & ANOTHER

...

Advocate for Applicants : Mr.V.P. Raje
Advocate for Respondent no.1 : Mr.S.G.Chapalgaonkar

...

CORAM : S.G.DIGE, J.

DATE : 25.08.2022

P.C. :

1] Heard the learned counsel for the applicants. The learned counsel for the applicants submits that respondent no.1 has challenged the judgment and award passed by the Motor Accident Claims Tribunal, Dhule and has deposited the entire award amount before this Court. Applicant no.1 is a widow and is doing household work and suffering from various age related ailments. Applicant no.2 is doing private service and earning meager amount. The deceased was the Karta of the family. After his death, there is no source of income to the family of the applicants. They are facing hardships in day to day activities, hence, requested to allow the application.

2] It is the contention of the learned counsel for respondent no.1 that there is false involvement of the vehicle in the alleged accident. The accident is occurred on 28th September, 2010 and FIR was lodged on 4th October, 2010 against unknown vehicle and involvement of vehicle is shown on 29th October, 2010. Respondent no.1 has challenged the judgment and order on various grounds. If the applicants are permitted to withdraw the amount and respondent no.1 succeeds in the Appeal then it would be difficult for respondent no.1 to recover the amount from the applicants, hence, requested to dismiss the application.

3] I have heard both learned counsel. Applicant no.1 is the widow of the deceased. Applicant no.2 is not earning much more to fulfill the demands of their family. The deceased was the Karta of applicants' family. Due to death of the deceased, family of the applicants is facing hardship.

4] The learned counsel for the applicants submits that the applicants are ready to furnish solvent surety if the applicants are permitted to withdraw the amount. Respondent no.1 is concerned about security of the amount and if the applicants are ready to provide solvent surety it would meet ends of justice, hence, I pass the following order :

ORDER

i] The application is allowed. The applicants are permitted to withdraw 25% amount along with accrued interest thereon out of the deposited amount on furnishing undertaking and the applicants are permitted to withdraw 25% of the amount along with accrued interest thereon out of the deposited amount on furnishing solvent surety.

ii] Civil Application is disposed of accordingly.

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

DDC