

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

INTERIM APPLICATION NO. 18288 OF 2022
IN
FIRST APPEAL NO. 697 OF 2022

Smt. Darshana Vasant Mukadam

..Applicant

v/s.

Vasant Kamlakar Mukadam & Anr.

..Respondents

Mr. Rajesh Kanojia a/w. Nikita Singh i/b. RES Juris for the
Appellant/Applicant Petitioner.
Mr. T.J.Mendon for the Respondent.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 20th SEPTEMBER, 2022.**

P.C.

1. By this application, the Applicant has sought withdrawal of the compensation awarded by the Claims Tribunal, Thane, by judgment dated 14.10.2021 in MACP No.586 of 2017.

2. Learned Counsel for the Appellant has opposed the application on the ground that the Claimant, who is the mother of the deceased is not entitled to receive any compensation. The records prima facie indicate that the deceased was the pillion rider on the motor cycle bearing No. MH 43 AP 2820 which was owned and driven by his father – the Respondent No.1 Vasant Mukadam. The said vehicle met with an accident, resulting in death of the son of the Claimant. It is not in dispute that the offending vehicle was insured with the Appellant

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Insurance Company. The material on record also prima facie shows that the crime has been registered against the Respondent No.1 for driving the vehicle in a rash and negligent manner. It is not the case of the Appellant that the pillion rider was not covered by the Insurance Company. Prima facie, the Appellant cannot be absolved of its liability to indemnify the insurer only because he is father of the deceased.

3. Considering the above facts and circumstances, the Applicant is permitted to withdraw 50% of the compensation along with proportionate interest accrued thereon, subject to filing an undertaking that she shall refund the amount with proportionate interest in the event the Appellant Insurance company succeeds in the appeal.

4. Civil Application stands disposed of.

(ANUJA PRABHUDESSAI, J.)