

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 30249 OF 2022
IN
FIRST APPEAL NO.786 OF 2013

Anjanabai Abaji Ghadge & ors.Applicant

Versus

Divisional Manager,
New India Ass.Co.Ltd.Respondent/Appellants

Mr.Pritesh K.Bohade for Applicants/Original Respondent No.2.
Mr.D.D.Mahadik for Appellant.

CORAM : S. G. DIGE, J.
DATE : 16th DECEMBER, 2022.

P.C. :

1. Heard learned counsel for the applicants and learned counsel for the Respondent. Learned counsel for the applicants submit that deceased was Karta of the applicants family. The applicants are widow, son and daughter of the deceased. The accident was happened in the year 2005, since then the applicants have not received any compensation. There is no source of income to the applicants family. The applicants need an amount for their daily expenses as well as education of applicant Nos. 3 to 7 and for medical expenses of the applicant No.8. Hence, requested to allow the application.

2. Learned counsel for the respondent strongly objected to allow the application, on the ground that at the time of accident, the driver of Tempo was not holding any valid driving license. The license produced by him before the Court was fake. The report sent by RTO, Mumbai shows that RTO office, Mumbai did not issue driving license in the name of Baliram Yadav and it was issued in the name of other person. But this fact is not considered by the Tribunal and passed impugned order fastening liability on the appellant. Which is challenged by the appellant by way of Appeal before this Court. Hence, requested to dismiss the application.

3. I have heard both learned counsels. The issue raised by the learned Counsel for the respondent in the Appeal is that at the time of accident driver was not holding valid driving license. If it is so as per the settled principle of law. The appellant can pay compensation and recover from the owner of vehicle. But for that purpose claimant should not be suffered, as accident was occurred in the year 2005. Deceased was Karta of the applicants family. Applicants need amount for their education and medical expenses. If appellant succeeds in the

appeal, they can recover amount from the owner of vehicle. In view of the above, I pass following order:

1. Application is allowed.
2. Applicants are permitted to withdraw entire amount alongwith accrued interest thereon deposited by the appellant on furnishing undertaking.
3. Application is disposed of.

(S. G. DIGE, J.)