

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.30247 OF 2022
IN
FIRS APPEAL NO.248 OF 2021

Shri.Jimmy Wilson Waidande & Anr. ...Applicants

Versus

Reliance General Insurance Co. Ltd. & Ors. ...Respondents

Mr.Tejpall S. Ingale, for the Applicant.

Ms.Pratibha Shelake h/f Mr.Pandit Kasar for the Original
Appellant

Mr.P.A. Narayanan for Respondent No.5.

CORAM : S.G. DIGE, J.

DATE : 15 DECEMBER 2022

P.C:-

. Heard learned counsel for the Applicants and the
learned counsel for the Respondent.

2. The learned counsel for the Applicants submit that
deceased was 38 years old and working at Post Office, Vashi. The
Applicant No.1 is brother and Applicant No.2 is son of deceased.
The Tribunal has fasten the liability to pay compensation 50%
each on Respondent Nos.1 and 4. The Respondent No.4 has
satisfied the award and they have not challenged the order passed
by the Tribunal. The Respondent No.1 has challenged the order

passed by the Tribunal and has deposited 50% amount along with accrued interest thereon before this Court.

3. The Applicant No.1 is maintaining the Applicant No.2 and spend pending amount on education of Applicant No.2. The amount is required for paying the fees of the Applicant No.2. The Applicant No.1 has no source of income, hence, requested to allow the Application.

4. The Respondent No.1 strongly objected to allow the Application on the ground that the vehicle which was insured with Respondent No.1 was not involved in accident in spite of that liability is fixed on Respondent No.1, this fact is challenged by the Respondent No.1 by way of Appeal which is pending before this Court. The Respondent has hope that the Respondent would succeeded in the Appeal, hence, requested to dismiss the Application.

5. I have heard both the counsel.

6. The Tribunal has fasten liability of 50% each on Respondent Nos.1 and 4. It is contention of the learned counsel for Respondent No.1 that the Respondent No.1 challenges the issue of involvement of the vehicle in the accident. The Applicants needed amount for education of the Applicant No.2

and their daily expenses. In view of the above, I pass following order.

ORDER

- (i) The Application is allowed.
- (ii) The Applicants are permitted to withdraw 50% of the amount along with accrued interest thereon deposited by Respondent No.1 on furnishing undertaking.
- (iii) The Application is disposed of.
- (iv) Place the First Appeal No.248 of 2021 on board on 13 January 2023.

(S.G. DIGE, J.)