

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

918 CIVIL APPLICATION NO. 6965 OF 2023
IN FIRST APPEAL NO. 11 OF 2023
WITH CA/186/2023 IN FA/11/2023

SUREKHA SAKHARAM PADMOR AND OTHERS
VERSUS
ICICI LOMBARD GENERAL INSURANCE COMPANY LTD AND
OTHERS

...
Mr. P.C. Mayure – Advocate for Applicants
Mr. A.G. Choudhari – Advocate for Respondent No.1
....

CORAM : SANDIPKUMAR C. MORE, J.
DATE : 22nd June, 2023

PER COURT :

CIVIL APPLICATION NO. 6965 OF 2023

1. Heard rival submissions.
2. The applicants are seeking withdrawal of the entire amount of compensation, which has been deposited by the Insurance Company alongwith the interest accrued thereon.
3. The learned Counsel for the Insurance Company opposed the application on the ground that, the deceased himself was driving the motorcycle involved in the accident.

However, it appears that Insurance Company has not examined any witness to that effect and only relied the statement of wife wherein she had stated that, her husband was driving the motorcycle. However, the statement recorded under Section 161 of Cr.P.C. cannot be taken as proof of said part. The Insurance Company also did not examined the Investigating Officer. It appears that, the bread earner of the family of applicants has died.

4. In view of the same, the applicants are permitted to withdraw 75% of the amount of compensation from their respective shares as determined by learned Tribunal alongwith the proportionate interest accrued thereon till date on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

5. The remaining amount be kept in F.D.R. in any nationalized Bank on yearly renewal basis till final disposal of this appeal.

6. The civil application is accordingly disposed of.

CIVIL APPLICATION NO. 186 OF 2023

7. Since the appellant – Insurance Company has deposited entire amount of compensation alongwith the interest, the application is made absolute in terms of prayer clause – A and disposed of.

[SANDIPKUMAR C. MORE]
JUDGE