

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 5372 OF 2019
IN FIRST APPEAL (ST) NO. 13115 OF 2019
WITH CA/5371/2019 IN FAST/13115/2019
WITH CA/14089/2019 IN FAST/13115/2019

ORIENTAL INSURANCE COMPANY LTD THR ITS BRANCH
MANAGER BEED
VERSUS
BABASAHEB TATYABA SANAP AND OTHERS

...

Mr. U.S. Malte – Advocate for Applicant
Mr. M.R. Deshmukh – Advocate for Respondent Nos.1 and 2
Mr. S.S. Sarda h/f. Mr. S.S. Bora – Advocate for Respondent
No.3 and 4

....

CORAM : SANDIPKUMAR C. MORE, J.
DATE : 21st April, 2023

PER COURT :

CIVIL APPLICATION NO. 5372 OF 2019

1. since the applicant/appellant – Insurance Company has deposited entire amount of compensation alongwith the interest accrued thereon, the application is made absolute in terms of prayer clause ‘B’ and disposed of.

CIVIL APPLICATION NO. 5371 OF 2019

2. The appellant – Insurance Company is seeking

condonation of delay of only 82 days, which appears to be caused due to obtaining sanctions at various stages.

3. There is not strong objection from other side and therefore the delay of 82 days stands condoned.

4. The appeal be placed for admission after removal of office objections, if any.

5. The Application is accordingly disposed of.

CIVIL APPLICATION NO. 14089 OF 2019

6. Heard rival submissions.

7. The applicants are seeking withdrawal of the entire amount of compensation, which has been deposited by the Insurance Company alongwith the interest accrued thereon.

8. The learned counsel for the Insurance Company strongly opposed the application on the ground that, the learned Tribunal has granted exorbitant amount of compensation by considering the salary of the deceased as 25,000/- p.m. without there being any satisfactory evidence. He also claimed

that, the deceased had in fact contributed in the occurrence of the accident to the extent of 50%.

9. However, it seems that the learned Trial Court has arrived at a conclusion that, the Tractor was parked negligently in the middle of the road and that there was satisfactory documentary evidence in respect of the income of the deceased. In view of the same and at this stage, the applicants are permitted to withdraw 50% of the deposited amount of compensation alongwith the interest accrued thereon till date on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

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

11. The civil application is accordingly disposed of.

[SANDIPKUMAR C. MORE]
JUDGE