

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1005 CIVIL APPLICATION NO.8243 OF 2023
IN
FAST/1502/2023

SEEMA RUSHIKESH DESHMUKH AND ORS
VERSUS
ICICI LOMBARD GENERAL INSURANCE CO LTD THROUGH ITS
MANAGER AUTHORISED SIGNATURE

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Advocate for Applicants: Mr. U. B. Deshmukh h/f.
Mr. Prasad Devidasrao Takalkar
Advocate for Respondent No.1:
Mr. Vinayak Narayan Upadhye
Advocate for Respondent No.2: Mr. B. N. Gadegaonkar

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CORAM : ARUN R. PEDNEKER, J.

DATE : 30th NOVEMBER, 2023

PER COURT:

1. Heard.

2. The present first appeal is filed by the insurance company on the ground on involvement of the vehicle. It is submitted that the F.I.R. is registered beyond 27 days of the date of the accident. The tribunal at para 20 of the Judgment as recorded it's finding as under:

"20] As could be seen from police record produced by claimants, upon investigation into the F.I.R. against unknown vehicle, it revealed from the investigation that it was

one Syed Atik Sayyed Mohinoddin, who was driving tempo bearing no. MH-22/0715 and dashed the car of the deceased from backside resulting into the accident. It is nobodies case, and even not that of the owner and the driver of the said tempo that the vehicle has been falsely implicated. It is difficult to accept that person like Sayyed Atik Sayyed Mohinoddin would invite false prosecution against him for the benefit of the claimants. With above material, I have no hesitation to reject the contention of the respondent no.2 / insurance company questioning the involvement of the offending tempo. On account distinct facts in the present case and the authorities relied by the Learned advocate for the respondent Insurance Company, the same have no application at all. I do not wish to burden the judgment by reproducing the same."

3. The stay is granted subject to deposit of entire amount of compensation and the insurance company has deposited the entire amount as directed.

4. The application is filed for withdrawal of amount by the widow, 2 minor sons and the parents of the deceased.

5. Having heard the learned counsel for the parties, I deem it appropriate to permit the widow and the parents to withdraw 60% of the amount to the extent of their shares, subject to furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this court. The share of the minor to be kept in fixed deposit. The remaining amount is also to be kept in fixed deposit, on yearly renewal basis. The civil application for withdrawal of amount stands disposed of.

6. The First Appeal is **admitted**. On admission, the learned counsel / AGP waive notice for the respective respondents. Call R & P. Office objections, if any, to be removed within a period of four (04) weeks from today.

[ARUN R. PEDNEKER, J.]

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