

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**951 CIVIL APPLICATION NO.16161 OF 2022
IN FAST/18773/2022 WITH CA/11606/2022 IN
FAST/18773/2022 WITH CA/11605/2022 IN
FAST/18773/2022**

**BEBI W/O VJAY PAWAR
VERSUS
CHOLA MANDALAM MS GENRALE INSURANCE COMPANY
THROUGH BRANCH MANAGER**

...
Advocate for Applicant : Mr. K. B. Jadhav
Advocate for Respondent No.1 : Mr. A. S. Usmanpurkar
....

**CORAM : SANDIPKUMAR C. MORE, J.
DATED : 31/01/2023.**

P. C. :

A) IN CIVIL APPLICATION NO.11605 OF 2022 :

1. Heard rival submissions.
2. The appellant - insurance company is seeking condonation of delay of only 15 days.
3. Considering the short period of delay and the reasons stated in the application, the delay of 15 days stands condoned.
4. The appeal be placed for admission after removal of office objections, if any. Application is accordingly disposed of.

B) IN CIVIL APPLICATION NO.11606 OF 2022 :

Since the appellant / insurance company has deposited the entire amount of compensation, the application is made absolute in terms of prayer clause-B and disposed of.

C) IN CIVIL APPLICATION NO.16161 OF 2022 :

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 strongly opposed the application on the ground that the deceased in this matter was in fact travelling in goods vehicle, which itself dis-entitled him to claim any compensation. He pointed out that there is nothing brought on record by the claimants that deceased was traveling with the goods. Even the police papers do not show such position. Moreover, the learned Tribunal has granted exorbitant amount of compensation.
4. However, whether the deceased was travelling with the goods or not, is a matter of final hearing and specific opinion can be drawn after scrutiny of evidence. In view of the same and considering the grounds of the appeal, the applicant Nos.1 & 4 at this juncture, are permitted to withdraw 50% of the deposited amount of compensation alongwith proportionate interest accrued thereon till date, on usual

undertaking to the satisfaction of the Registrar (Judicial) of this court.

5. The 40% of the deposited amount be paid to applicant No.1 alongwith the accrued interest thereon and 10% of the deposited amount be paid to applicant No.4 alongwith the accrued interest thereon.

6. The remaining amount be invested in FDR in any nationalized bank on yearly renewal basis till final disposal of the appeal.

7. The civil application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)