IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

961 CIVIL APPLICATION NO.13694 OF 2023
IN FAST/22687/2023
WITH CA/9231/2023 IN FAST/22687/2023
WITH CA/9233/2023 IN FAST/22687/2023

SAU VIJUBAI MAGAN UKHALDE AND ANR
VERSUS
RADHESHYAM JIVANLAL RANE AND ANR
...
Advocate for Applicants : Mr.Mayure Pramod C.
Advocate for Respondent no.2 : Mr.A.S.Usmanpurkar
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 07.11.2023

P.C. :

A] ORDER IN CIVIL APPLICATION FOR WITHDRAWAL

1] Heard the learned counsel for the applicants. The appeal is filed on the ground that the vehicle is a goods vehicle and that the deceased was traveling in the goods vehicle and as such he is not entitled for compensation in terms of the policy. The written statement filed by the insurance company before the Tribunal indicated that the defence was taken that the person traveling is not a coolie but is a labourer, traveling in the truck. However, relying upon the cross examination of the Officer of the insurance company, the Tribunal has rendered a finding that the deceased was a coolie for

which additional premium has been paid in addition to the basic third party claim. In view of the same, the Tribunal allowed the claim of the claimants.

2] The First Appeal is filed by the Insurance Company and stay has been granted subject to deposit of entire award amount. The application for withdrawal of amount has filed by the parents.

3] Considering the submissions canvassed, the applicants are permitted to withdraw 50% of the total amount of compensation deposited in this Court along with accrued interest thereon till date subject to furnishing undertaking to the satisfaction of the Registrar [Judicial] of this Court. Civil Application is disposed of accordingly.

B] ORDER IN CIVIL APPLICATION FOR DELAY

1] The present Civil Application is filed to condone the delay of 194 days in filing the First Appeal.

2] For the reasons stated in the Civil Application, the same is allowed. Delay is condoned. Appeal be registered. Civil Application is disposed of accordingly.

C] ORDER IN CIVIL APPLICATION FOR STAY

Since the appellant – Insurance Company has deposited the amount as directed by this Court, the interim stay granted by this Court stands confirmed. Civil Application is disposed of accordingly.

D] ORDER IN FIRST APPEAL

1] First Appeal is admitted. On admission, Mr.P.C.Mayure, learned counsel waives notice for respondent nos.1 and 2.

2] Call R. & P.

[ARUN R. PEDNEKER]
JUDGE

DDC