

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

INTERIM APPLICATION NO.3718 OF 2023

IN

FIRST APPEAL (STAMP) NO.3847 OF 2023

Smt. Riya Kailash Udasi and Ors.

...Applicants

Versus

ICICI Lombard General Insurance
Company Limited

...Respondents

....

Mr. Bhushan Walimbe for the Applicants in IA/3718/2023 and for
the Respondents in FAST/3847/2023.

Ms Varsha Chavan for the Appellant-Insurance Company.

CORAM: SHIVKUMAR DIGE, J.

DATE : 11th DECEMBER, 2023.

P.C.:-

1. This is an application for withdrawal of the amount deposited by the Appellant-Insurance Company.
2. It is the contention of the learned counsel for the Applicants that the deceased was the sole earning member of the Applicants' family. They have no source of income. They need the amount for their daily expenses. Hence, the Applicants requested to allow the application.
3. It is the contention of learned counsel for the Appellant-

Insurance Company that the Appellants have raised the issue before the Tribunal that there was non-involvement of the vehicle, there was contributory negligence on the part of the deceased and income of the deceased is considered on higher side. It is further stated that all these facts are not considered by the Tribunal, hence she has requested to reject the application.

4. I have heard learned counsel for the respective parties.

5. The deceased was sole earning member of the family. The Applicants have no source of income. They need money for their daily expenses. The issues raised by the learned counsel for the Insurance Company can be considered at the time of final hearing of the appeal. Hence, I pass following order:-

(i) The application is allowed.

(ii) The Applicants are permitted to withdraw 50% amount out of the deposited amount alongwith accrued interest thereon on furnishing undertaking.

6. The application stands disposed of.

(SHIVKUMAR DIGE, J.)