

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

**INTERIM APPLICATION NO.3755 OF 2023
IN
FIRST APPEAL NO.306 OF 2023**

Trupti Praveen Rathod And Ors. ... Applicants

V/s.

Branch manager,
IFFCO TOKIO General Insurance Co.Ltd. ... Respondent

Mr. Jayant J. Bardeskar for the Applicants.

Mr. Rahul Mehta i/by KMC Legal Venture for Respondent No.2.

Mr. Shashank Mangle for Respondent No.5.

CORAM : SHIVKUMAR DIGE, J.

DATED : 17th APRIL, 2023

P.C.:

1. Heard learned counsel for the Applicants and learned counsel for the Respondent.

2. Learned counsel for the Applicants submits that this Court has permitted the Applicants to withdraw Rs.30 lakhs, out of deposited amount of Rs.1,52,00,000/-. The Applicants have to pay loan amount more than Rs.85 lakhs. The Applicants are facing financial difficulties due to the said loan amount. They have no source of income as the deceased was sole earning member of the Applicant's family. Hence, requested to allow the Application.

3. The learned counsel for the Respondent-Insurance Company strongly objected to allow the application on the ground that this Court has already permitted the Applicants to withdraw Rs.30 lakhs out of deposited amount. The Insurance Company has challenged the order of Tribunal on the ground that pay and recovery order is passed against the Insurance Company without any reasonable ground. There was breach of terms and conditions of the insurance policy, but Tribunal has not considered this fact and has passed the impugned order. Hence, requested to dismiss the application.

4. I have heard both the learned counsel.

5. Deceased was sole earning member of the Applicant's family. There is outstanding loan amount of more than Rs.85 lakhs on Applicants. They need the amount for repaying the loan amount as well as interest amount. They have no source of income. Hence, I pass following order:-.

ORDER

- (i) Application is allowed.
- (ii) The Applicants are permitted to withdraw Rs.25 lakhs along with accrued interest thereon out of deposited amount on furnishing undertaking.
- (iii) Application is disposed of.

(SHIVKUMAR DIGE, J.)