

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 17331 OF 2023

IN

FIRST APPEAL NO. 512 OF 2023

Archana Shrishail Aiwale and Ors.

.... Applicants

IN THE MATTER BETWEEN

The New India Assurance Co. Ltd.

... Appellant

Versus

Archana Shrishail Aiwale and Ors.

.... Respondents

Mr. R.S.Alange, Advocate for the Applicant.

Mr. Sandeep Jinsiwale, Advocate for Appellant in FA/512/2023

CORAM : SHIVKUMAR DIGE, J.

DATE : 12th DECEMBER, 2023**P.C. :**

1. Heard learned counsel for the applicants.
2. By this application, applicants are seeking withdrawal of amount. It is the contention of learned counsel for the applicants that deceased was the sole earning member of applicants' family. Applicants were dependent on the income of deceased. Applicants need the amount for daily expenses. Hence ,requested to allow the application.
3. It is the contention of learned counsel for the appellant – Insurance Company that at the time of accident the driver of offending vehicle was not holding an effective and valid driving licence, but this fact

is not considered by the Tribunal and awarded the compensation. Hence requested to reject the application.

4. I have heard both the learned Counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Solapur (for short “**the Tribunal**”). The deceased was the sole earning member of the applicants’ family. Applicants need the amount for their daily expenses. Applicants have no source of income. The grounds raised by the appellant-Insurance Company can be considered at the time of final hearing of the appeal. Hence, Considering this fact, I pass following order :

ORDER

- (i) The application is allowed.
- (ii) The applicants are permitted to withdraw the 50% amount out of deposited amount along with accrued interest thereon on furnishing usual undertaking.

5. The Interim application is disposed off.

(SHIVKUMAR DIGE, J.)