

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

**INTERIM APPLICATION NO. 13856 OF 2023
IN
FIRST APPEAL NO. 310 OF 2017**

Smt. Pournima Manoj Utekar & Ors.

....Applicants

IN THE MATTER BETWEEN:

United India Insurance Co. Ltd.

....Appellant/Org.
Respondent

Versus

Smt. Pournima Manoj Utekar & Ors.

....Respondents/
Org. Claimants

Mr. Aman Sakaria i/b C. J. Doveson for the Applicants.
Ms. Varsha Chavan for the Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th NOVEMBER, 2023.

P.C. :

1. Heard learned counsel for the Applicants and learned counsel for the Respondent/Insurance Company.
2. Learned counsel for the Applicants submitted that deceased was the sole earning member of Applicants' family. Applicant No.2 and 3 are Senior Citizens, they need amount for

medical treatment. Applicants have no source of income, they stayed in rented premises. The accident occurred in the year 2010. Earlier this Court permitted Applicants to withdraw Rs.4,00,000/- out of deposited amount. Applicants need amount, as they have no source of income. Hence, requested to allow the Application.

3. Learned counsel for the Respondent/Insurance Company strongly objected to allow the Application on the ground that there was breach of terms of Insurance Policy but, this fact is not considered by the Tribunal and has wrongly fixed liability on the Insurance Company which is challenged by the Insurance Company by way of this appeal. This Court has already permitted the Applicants to withdraw Rs.4,00,000/- amount which is sufficient. No reasons are mentioned in the Application for withdrawal of the amount. Hence, requested to reject the Application.

4. I have heard both learned counsel, accident happened in the year 2010. The Tribunal has passed order in the year 2016. The deceased was the sole earning member of the Applicants' family and he was the only son of the Applicant Nos.2 and 3. Applicant Nos.2 and 3 are Senior Citizens. Applicants have no source of income, they need amount for medical treatment. Considering these facts, I pass

following order.

ORDER

- i. Application is allowed.
- ii. Applicants are permitted to withdraw Rs.2,00,000/- each along with accrued interest thereon, subject to filing undertaking.
- iii. Application is disposed of.

(SHIVKUMAR DIGE, J.)