IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 624 OF 2023
IN
FIRST APPEAL NO.1253 OF 2022

Asha Arunkumar Sharma & 3 ors. ….Applicants
Versus
HDFC Ergo General Insurance Co. ltd. ….Respondent

Mr. Harsh Pathak i/b. Ms. Indira Labde, Advocates for the Applicants.
Mr. Akshay R. Kulkarni i/b. Mr. Sarthak S Diwan, Advocate for the Respondent-Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 14th MARCH 2023.

P.C. :

1. Heard learned counsel for the applicants and learned counsel for respondent-Insurance Company.

2. Learned counsel for the applicants submits that deceased was the sole earning member of the applicants' family. Applicant No.1 is wife of deceased, applicant Nos. 2 and 3 are sons of deceased and applicant No.4 is mother of deceased. After death of deceased, the applicants have no source of income. They need the amount for their daily expenses, for paying school fees of applicant

Nos 2 and 3 and for medical expenses of applicant No.4. Hence, requested to allow the application.

3. Learned counsel for respondent- Insurance Company objected to allow the application on the ground that the Tribunal has awarded exorbitant and excessive compensation, there was breach of terms and condition of insurance policy and at the time of the accident, the driver of the offending vehicle was not holding an effective and valid driving license, but the Tribunal has not considered these facts. Hence, requested to dismiss the application.

4. I have heard both learned counsel. The deceased was sole earning member of the applicants' family. The applicants have no source of income. The applicants need the amount for their daily expenses, paying school fees of applicant Nos.2 and 3 and medical expenses of applicant No.4. The grounds raised by the respondent - Insurance Company can be considered at the time of final hearing of the appeal. Hence, I pass the following order :

O R D E R

1. The application is allowed.

2. The applicants are permitted to withdraw the 50% amount along with accrued interest therein, out of the deposited amount on furnishing usual undertaking.

The application is disposed of.

(SHIVKUMAR DIGE, J.)