

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 843 OF 2023
IN
FIRST APPEAL NO. 1310 OF 2022**

Duryodhan Gujaba Savane & Anr.	Applicants
Versus	
The New India Assurance Co. Ltd & Ors.	Respondents

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Mr. T.J. Mendon Advocate for the Applicants.
Mrs. Karishma Jhaveri i/b Navdeep Vora & Associates Advocate for
the Respondents & for Appellant in FA.

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CORAM : S. G. DIGE, J.

DATE : 6TH FEBRUARY, 2023.

P.C. :

1. Heard learned counsel for applicants and learned counsel for respondents.
2. Learned counsel for applicants submits that deceased was the son of applicant. He was the only earning member of applicants' family. Applicants are the old aged persons. They have no source of income. They require the amount for their daily expenses and medical expenses. Hence requested to allow the application.

3. Learned counsel for Respondent No.1 submits that at the time of accident, the driver of offending vehicle was under the influence of alcohol and Tribunal has considered the income of deceased on higher side. These facts are challenged by the Respondent No.1 before this Court by way of appeal. If Respondent No.1 succeeds in appeal, it would be difficult to recover the amount from the applicants. Hence, requested to dismiss the application.

4. The deceased was the son of applicants. Applicants are the old aged persons. They have no source of income. They require the amount for their daily expenses and for medical expenses. The issue raised by the Respondent No.1 can be considered at the time of final hearing.

5. Hence, I pass following order.

ORDER

i. Application is allowed.

ii. Applicants are permitted to withdraw 30% amount along with accrued interest thereon out of deposited amount on furnishing undertaking.

iii. Application is disposed off.

(S. G. DIGE, J.)