IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1321 OF 2023
IN
FIRST APPEAL NO.415 OF 2021

Tanaji Shripati Kapse ...Applicant
Versus
The New India Assurance Co. Ltd.,
Pune & Mumbai & Anr. ...Respondents

Mr.Yogesh Pande, for the Applicant.
Mr.Rajesh Kanojia a/w Ms.Nikita Singh, Ms.Aarushi Srivastava i/b Res Juris, for Respondent No.1.

CORAM : S.G. DIGE, J.

DATE : 14 FEBRUARY 2023

P.C:-

. Heard learned counsel for the Applicant and the learned counsel for Respondent No.1.

2. The learned counsel for the Applicant submit that the deceased was mother of Applicant.

3. The deceased was sole bread earner of Applicant family. After death of deceased Applicant is facing starvation. He has no source of income. The Applicant needed the amount for his daily expenses. Hence, requested to allow the Application.

4. The learned counsel for Respondent No.1 strongly objected to allow the Application on the ground that there was breach of terms of Insurance Policy. The offending jeep had passengers more than permitted capacity but this fact is not considered by the Tribunal and awarded exorbitant and excessive compensation. Hence, requested to dismiss the Application.

5. I have heard both learned counsel.

6. The deceased was sole bread earner of the Applicant family. The Applicant needed the amount for their daily expenses. The grounds raised by the Respondent can be considered at the time of the final hearing of the Appeal. Hence, I pass following order.

ORDER

(i) The Application is allowed.

(ii) The Applicant is permitted to withdraw 25% amount along with accrued interest out of the deposited amount, on furnishing undertaking.

(S.G. DIGE, J.)