

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

**INTERIM APPLICATION NO.1367 OF 2023
IN
FIRST APPEAL NO.370 OF 2021**

Smt.Nanda Amar Ingawale & Ors.

...Applicants

Versus

The New India Assurance Co. Ltd.,
Pune & Mumbai

...Respondent

NILAM
SANTOSH
KAMBLE

Digitally signed
by NILAM
SANTOSH
KAMBLE
Date: 2023.02.17
10:14:51 +0530

Mr.Yogesh Pande, for the Applicants.

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 Applicants and the
learned counsel for Respondent No.1.

2. The learned counsel for the Applicant submit that the
deceased was husband of Applicant No.1 and father of Applicant
Nos.2 and 3 and son of Applicant No.4.

3. The deceased was sole bread earner of Applicants
family. After death of deceased Applicants are facing starvation.
They have no source of income. The Applicants needed the
amount for their daily expenses and paying school fees of

Applicant Nos.2 and 3. 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 Applicants family. The Applicants needed the amount for their daily expenses and paying school fees of Applicant Nos.2 and 3. 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 Applicants are permitted to withdraw 25% amount along with accrued interest out of the deposited amount, on furnishing undertaking.

(S.G. DIGE, J.)