

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 158 OF 2022
IN
FIRST APPEAL (ST) NO. 35652 OF 2015**

Vijaya Vidhyadhar Pathak & anr.	Applicants
In the matter of	
The New India Assurance Company Ltd.	Appellant
Versus	
Vijaya Vidhyadhar Pathak & Ors.	Respondents

Ms. Riddhi Gurav i/b. Mr. Sandip D Shinde, Advocate for the Applicant.
Mr. S. M. Dange, Advocate for the Appellant-Insurance Company.

CORAM : S. G. DIGE, J.

DATE : 16th FEBRUARY 2023.

P.C. :

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

2. Learned counsel for the applicants submits that the deceased was the only earning member of the applicants' family and the applicants have no source of income. They are facing starvation, they need the amount for their daily expenses. Learned

counsel further submits that applicant No.1 is suffering from cancer, she needs the amount for her medical expenses. The accident is of the year 2010, since then, the applicants have not received any compensation. Hence, requested to allow the application.

3. Learned counsel for the respondent-Insurance Company strongly objected to allow the application on the ground that the accident had occurred due to sole negligence of the deceased. The Tribunal has considered the income of the deceased on the higher side and has awarded exorbitant and excessive compensation. Hence, requested to dismiss the application.

4. I have heard both learned counsel. The accident had occurred in the year 2010, since then, the applicants have not received any compensation. The deceased was the Karta of the applicants' family. Applicant No.1 is suffering from cancer. She has no source of income, she needs the amount for her daily and medical expenses. The grounds raised by learned counsel for respondent-Insurance Company can be considered at the time of final hearing of the appeal. Hence, I pass the following order :

1. The application is allowed.
2. The applicants are permitted to withdraw 50% amount along with the accrued interest thereon, out of the deposited amount, on furnishing undertaking.

The application stands disposed of.

(S. G. DIGE, J.)