

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 2079 OF 2023
IN
FIRST APPEAL NO. 247 OF 2023

Smt. Bababai Namdeo Sangale & Anr.

...Applicants

Versus

Shriram General Insurance Company Limited

...Respondent

WITH
FIRST APPEAL NO. 247 OF 2023
WITH
CIVIL APPLICATION (CAF) NO. 3322 OF 2018

Shriram General Insurance Company Limited

Through Mr. Satpalsingh Rajput

...Appellant

Versus

Smt. Bababai Namdeo Sangale & Ors.

...Respondents

Mr. Rahul Mehta i/by KMC Legal Venture for the Appellant in Appeal & for Respondent in IA No.2079 of 2023.

Mr. Pritesh Bohade for Respondent Nos.1 & 2 in Appeal & for Applicants in IA No.2079/2023.

CORAM : SHIVKUMAR DIGE, J.

DATE : 31st MARCH 2023.

P. C. :

1. Heard learned Counsel for the Applicants and learned Counsel for the Respondent/Appellant.

2. Learned Counsel for the Applicants submits that deceased was sole earning member of the Applicants' family. Applicants have no source of

income. They need the amount for their daily expenses. Hence, requested to allow the Application.

3. Learned Counsel for the Respondent/Appellant strongly objected to allow the Application on the ground that deceased was traveling as a gratuitous passenger in the offending vehicle and this fact was argued before the Tribunal but it was not considered, as deceased was traveling as a gratuitous passenger. The Respondent/Appellant is not liable to pay any compensation. Hence, requested to dismiss the Application.

4. I have heard both learned Counsel.

5. The deceased was sole earning member of the Applicants' family. The Applicants have no source of income. They need the amount for their daily expenses. The issue raised by learned Counsel for the Respondent/Appellant, can be considered at the time of final hearing of the Appeal. Hence, I pass following order :

ORDER

- i. Application is allowed.
- ii. The Applicants are permitted to withdraw 30% amount alongwith accrued interest thereon out of deposited amount on furnishing undertaking.
- iii. Application is disposed off.

6. List the Appeal alongwith Civil Application on **6th June, 2023.**
7. Leave to file compilation.

(SHIVKUMAR DIGE, J.)