

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

**INTERIM APPLICATION NO.16170 OF 2023
IN
FIRST APPEAL (ST) NO.31190 OF 2018**

Vijay Machharam Panchal (Decd.) Thr.Applicants
Sarala Vijay Panchal & Anr.

V/s.

The Bombay Electric Supply & TransportRespondents

Mr.Navin C. Sheth i/b Ms.Nikita Sheth, for Respondent in FAST No.31190 of 2018 and for the Applicant in IA No.16170 of 2023.
Mr.Bhavesh Wadhvani a/w Mr.Aavish Shetty i/b M.V. Kini & Co., for the Appellant in FAST No.31190 of 2018 and for Respondents in IA No.16170 of 2023.

CORAM : SHIVKUMAR DIGE, J.

DATE : 21st DECEMBER 2023

P.C:-

. Heard learned counsel for the Applicant and learned counsel for the Respondent-BEST.

2. The learned counsel for the Applicants submit that, due to accidental injuries, from the date of the accident the Applicant was in vegetative state. He was continuously bedridden and last year he has died, due to accidental injuries.

The deceased-Claimant was sole earning member of the family. The Applicants needs the amount for their daily expenses. They are facing starvation as there is no source of income. Hence, requested to allow the Application.

3. The learned counsel for the Respondent has objected to allow the Application on the ground that, the Tribunal has awarded compensation on higher side without considering the evidence on record, there was contributory negligence of the Claimant-Deceased. This fact is not considered by the Tribunal. Hence, requested to dismiss the Application.

4. I have heard both the learned counsel.

5. Due to accidental injuries the Claimant-Deceased was bedridden. He was in vegetative state. Last year he has died. The Applicants needs the amount for their daily expenses. They have no source of income. The issue raised by the learned counsel for Respondent-Insurance Company 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 30% amount along with accrued interest thereon on furnishing undertaking.

(SHIVKUMAR DIGE, J.)