

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 13299 OF 2023****IN****FIRST APPEAL NO. 959 OF 2023**

Shivprakash Timme Gowda (deceased) - Applicant
Bharti Shivaprakash Gowda and Ors.

IN THE MATTER OF

United India Insurance Co. Ltd. Appellant

Versus

Shivprakash Timme Gowda (deceased) - Respondents
Bharti Shivaprakash Gowda and Ors.

Ms. Varsha Chavan, Advocate for the Appellant.

Ms. Rina Kundu, Advocate for Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 30th NOVEMBER, 2023.

P.C. :

1. Learned counsel for the applicant and learned counsel for respondents.

2. It is the contention of learned counsel for the applicant that the deceased was the sole earning member of the applicant's family. Applicants have no source of income. They need the amount for daily expenses. Hence, requested to allow the application.

3. Learned counsel for the Appellant - Insurance company strongly objected to allow the application on the ground that Tribunal has awarded

exorbitant and excessive compensation. The Tribunal has awarded the compensation to the earning member and without considering the fact that the Certificate under Section 65B of the Evidence Act was not produced on record. Hence requested to reject the application.

4. I have heard both the learned Counsel. The deceased was the sole earning member of the applicant's family. Applicants have no source of income. They need the amount for daily expenses. The issues raised by the learned counsel for the appellant - Insurance Company can be considered at the time of final hearing of the appeal. Considering this facts, I pass following order :

ORDER

- (i) Application is allowed.
- (ii) Applicants are permitted to withdraw Rs.25,00,000/- out of the deposited amount along with accrued interest thereon, subject to filing usual undertaking.

5. Application is disposed off.

(SHIVKUMAR DIGE, J.)

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