

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 16947 OF 2022
IN
FIRST APPEAL NO. 558 OF 2022**

Pradnya Subhash Mule & Ors.Applicants

Versus

The New India Assurance Co. Ltd.Respondent

Mr. Vaibhav Ugle Advocate for the Applicants
Mrs. Shalini Shankar Advocate for the Respondent & for Appellants
in FA.

CORAM : S. G. DIGE, J.

DATE : 6TH FEBRUARY, 2023.

P.C. :

1. Heard learned counsel for applicants and learned counsel for respondent.
2. Learned counsel for applicants submit that deceased was the Karta of applicants family. Applicant No. 1 is the widow of deceased and Applicant Nos. 2 and 3 are the sons of deceased. The applicants need the amount for daily expenses and paying education

fees of Applicant Nos. 2 and 3. Hence, requested to allow the application.

3. Learned counsel for respondent objected to allow the application on the ground that respondent has raised the issue of breach of terms of insurance policy before the Tribunal as the driver of offending vehicle was not holding effective and valid driving licence at the time of accident and there was contributory negligence in the said accident by the deceased. But these grounds were not considered by the Tribunal. Hence, respondent has preferred the appeal and requested to dismiss the application.

4. I have heard both learned counsel.

5. Deceased was the Karta of applicants family. The applicants need the amount for their daily expenses and paying education fees of the Applicant Nos. 2 and 3.

6. Hence, I pass following order.

ORDER

- I. Application is allowed.
- ii. Applicants are permitted to withdraw 50% amount alongwith accrued interest thereon deposited by respondents on furnishing undertaking.

iii. Application is disposed off.

(S. G. DIGE, J.)