

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

**INTERIM APPLICATION NO.923 OF 2023
IN
FIRST APPEAL NO.722 OF 2012**

Shankar G. Rane & Ors. ... Applicants
V/s.
Iffco-Tokio General Insurance Company
Limited And Ors. ... Respondents

Mr. Rina Kundu for the Applicants.
Mr. Rahul Mehta i/by KMC Legal Venture for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATED : 21st APRIL, 2023

P.C.:

1. Heard learned counsel for the Applicants and learned counsel for the Respondents.
2. Learned counsel for the Applicants submits that deceased was the sole earning member of the Applicants' family. The Applicants have no source of income, they need the amount for daily expenses, earlier this Court has permitted to the applicants to withdraw 25% on furnishing undertaking and 20% amount on furnishing security, applicants could not furnish security. Hence, Applicants have not withdrawn 20% amount. Applicants are in need of amount. Hence, Applicants be permitted to withdraw remaining amount. Learned counsel further submits that Applicant No.1 is expired during pendency of the application.

3. Learned counsel for the Respondent-Insurance Company strongly objected to allow the application on the ground that at the time of accident, driver of offending vehicle was not holding effective and valid driving licence and the said fact was proved before the Tribunal by examining RTO witness, but this fact is not considered by the Tribunal. Hence, requested to dismiss the application.

4. I have heard both learned counsel. The deceased was the sole earning member of the Applicants' family. The Applicants have no source of income. The Applicants are permitted to earlier by this Court to withdraw 25% amount on furnishing undertaking and 20% on furnishing security, but applicant could not withdraw 20% amount as applicants did not furnish security. In view of above, the appeal is of year 2012. Hence, I pass the following order.

ORDER

- (i) The Application is allowed.
- (ii) The Applicant No.2 is permitted to withdraw 25% amount, out of the deposited amount along with interest accrued thereon, on furnishing undertaking.

Application stands disposed of.

(SHIVKUMAR DIGE, J.)