

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.13853 OF 2023

IN

FIRST APPEAL NO.449 OF 2021

TUKARAM SAHDEV TELI AND ORS.)...APPLICANTS

V/s.

THE NEW INDIA ASSURANCE CO. LTD.)...RESPONDENT

Mr.Y.M.Pendse a/w. Mr.Amit Choudhary, Advocate for the Applicants /
Respondents No.1 to 3.

Mr.D.S.Joshi, Advocate for the Appellant.

CORAM : ABHAY AHUJA, J.

DATE : 4th AUGUST 2023

PC. :

1. This Interim Application is preferred by the original claimants seeking to withdraw the amount deposited by the Insurance Company.

2. Mr.Pendse, learned Counsel for the Interim Applicants, would submit that the deceased, who was working in Bigsun Technologies Pvt. Ltd., was 25 years old when he met the fatal accident. The Applicants were fully dependent on his income and because of the death of Tushar Tukaram Teli, they have lost their only source of income. Learned

Counsel would submit that, therefore, some interim compensation be awarded to them till disposal of the Appeal, as no amounts have been received, as there is a stay on the execution.

3. Mr.Devendranath Joshi, learned Counsel, would submit that, although the Insurance Company has deposited the entire decretal amount, however, as there are triable issues raised in the Appeal, the entire amount cannot be allowed to be withdrawn.

4. Having heard the learned Counsel and having perused the application as well as the impugned decision, this Court is of the view that interests of justice would be served if 30% of the amount deposited is allowed to be withdrawn, in the manner contained in the impugned judgment and award, subject to an undertaking that if the Appeal is allowed, the claimants will bring back the amount along with interest within a period of four weeks.

5. Interim Application, accordingly, is allowed and stands disposed.

(ABHAY AHUJA, J.)