

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

INTERIM APPLICATION NO. 30140 OF 2022

IN

FIRST APPEAL (ST) NO. 20989 OF 2022

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Mangal Ravindra Divate & Ors.

....Applicant

Versus

The New India Assurance Co. Ltd. & Anr.

....Respondents

Mr. Yogesh Pande for the Applicants.

Ms. Karishma Zaveri i/b Adv. Navdeep Vora & Associates for the
Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th APRIL 2023.

P.C. :

1. Heard learned counsel for the Applicants and learned
counsel for the Respondents.

2. Learned counsel for the Applicants submit that the
deceased was the sole earning member of Applicants' family.
Applicants have no source of income, they need the amount for daily
expenses, accident occurred in the year 2006, since their Applicants

have not received any compensation. Hence, requested to allow the Application.

3. Learned counsel for the Respondent/Insurance Company strongly objected to allow the Application, on the ground that the vehicle of deceased gave dash from the backside. There was sole negligence of the vehicle of deceased in the said accident, but the tribunal has considered 50% contributory negligence of offending vehicle which is not proper. Hence, requested to dismiss the Application.

4. I have heard both learned counsel, deceased was sole earning member of Applicant's family. Applicants have no source of income, they need the amount for daily expenses. The issue raised by the learned counsel for the Respondents can be considered at the time of final hearing of the appeal and I pass following order.

- i. Application is allowed.
- ii. The Applicants are permitted to withdraw 40% amount out of deposited amount along with accrued interest thereon, on furnishing undertaking .
- iii. The application disposed of.

(SHIVKUMAR DIGE, J.)