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

INTERIM APPLICATION NO. 2507 OF 2023

IN

FIRST APPEAL NO. 509 OF 2018

Madhavi Ashish Yadav & Ors.

....Applicants
(Ori. Claimants)

IN THE MATTER BETWEEN

United India Insurance Co. Ltd.

....Appellant
(Ori. Opp. NO. 2 /Insurer)

Versus

Madhavi Ashish Yadav & Ors.

....Respondents
(Ori. Claimants)

Ms. Varsha Chavan for the Applicants/Appellants.

Mr. Tejas Hartalkar for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 21st MARCH 2023.

P.C. :

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

2. Learned counsel for the applicants submits that the deceased was the sole earning member of applicants' family. The applicant no. 1 is widow and applicant nos. 2 and 3 are daughters of the deceased. The applicant needs the amount for daily expenses as well as for paying education fees of applicant nos. 2 and 3. Applicant have no source of income. Hence, requested to allow the application.

3. Learned counsel for the respondent/Insurance Company strongly objected to allow the objection, on the ground that at the time of the offending vehicle did not have valid permit. Moreover, the accident was caused due to contributory negligence of the deceased but this fact was not considered by the tribunal at the time of awarding compensation. Hence, requested to dismiss the application.

4. I have heard both learned counsel, deceased was the sole earning member of the applicants' family. Applicants have no source of income, they need the amount for daily expenses and for paying education fees of applicant nos. 2 and 3. The ground 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.

ORDER

- i. Application is partly allowed.
- ii. Applicants are permitted to withdraw Rs. 10,00,000/- along with accrued interest thereon, out of deposited amount on furnishing undertaking.
- iii. Application disposed of.

(SHIVKUMAR DIGE, J.)