

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 20598 OF 2022
IN
FIRST APPEAL NO. 1342 OF 2022**

Smt. Sarika Sudhir Rawool & Ors.Applicants

In the matter between

New India Assurance Co. Ltd.Appellant

Versus

Smt. Sarika Sudhir Rawool & Ors.Respondents

Mr. Amol Ghatne i/b Swati Uday Mehta, for the Applicant.

Mr. Rajesh Kanojia i/b Res Juris, for the Respondents.

CORAM : S. G. DIGE, J.

DATE : 31st JANUARY, 2023.

P.C. :

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

2. The learned counsel for the Applicants submits that deceased was the Karta of the Applicants' family. He was the sole earning member of the family. The Applicants need the amount for their daily expenses. The Appellant has deposited the entire amount before the tribunal. Hence, the applicants be permitted to withdraw

the amount.

3. The learned counsel for the Appellant/Respondent objected to allow the application on the ground that initially the FIR is in respect of the said accident was filed against the deceased husband of the applicant no. 1. This fact is not considered by the tribunal while awarding the compensation. The Respondent has challenged the impugned order by way of appeal. Hence requested to dismiss the application.

4. I have heard both learned counsel. The applicants are the legal heirs of deceased. The Deceased was the only earning member of applicants' family. The Applicants needed the amount for their daily expenses and paying school fees of Applicant Nos. 2 and 3. The issue raised by the Respondent can be considered at the time of final hearing of the appeal.

5. In view of above, I pass following order.

- I. Application is allowed.
- ii. The Applicants are permitted to withdraw the 25% amount, out of the deposited amount along with accrued interest thereon, on furnishing an undertaking.
- ii. Application is disposed of.

(S. G. DIGE, J.)