

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

**INTERIM APPLICATION NO. 16967 OF 2023
IN
FIRST APPEAL NO. 796 OF 2023**

Shital Ajay Salve & Ors.Applicants

IN THE MATTER BETWEEN:

The New India Assurance Co. Ltd.Appellant

Versus

Shital Ajay Salve & Ors.Respondents

Mr. Yogesh Pande for the Applicants.

Mr. D. S. Joshi for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th NOVEMBER, 2023.

P.C. :

1. Heard learned counsel for the Applicants and learned counsel for the Respondent/Insurance Company.

2. Learned counsel for the Applicants submits that deceased was the sole earning member of Applicants' family. Applicants have no source of income, they require the amount for education of Applicant Nos.2 and 3. Hence, requested to allow the Application.

3. Learned counsel for the Respondent/Insurance Company

strongly objected to allow the Application on the ground that, initially one person was shown as driving the vehicle and after some days he was replaced with other driver, as the person who was shown driver at the first instance was not holding valid driving licence, but this fact is not considered by the tribunal and has wrongly passed judgment and order. Hence, requested to reject the Application.

4. I have heard both learned counsel. Deceased was the sole earning member of Applicants' family. Applicant Nos.2 and 3 are taking education, they require the amount for education purpose and daily expenses. Applicants have no source of income. Considering this facts, I pass following order.

ORDER

- i. Application is allowed.
- ii. Applicants are permitted to withdraw Rs.30,00,000/- out of deposited amount along with accrued interest thereon, subject to filing undertaking.
- . Application is disposed off.

(SHIVKUMAR DIGE, J.)