

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

**INTERIM APPLICATION NO. 30393 OF 2022
IN
FIRST APPEAL (ST) NO.23048 OF 2022**

Mina Vasant Patil & anr.

....Applicants

Versus

The General Manager,

R/at. B.E.S. & T Undertaking

...Respondents

Mr. Tejpal Ingale, Advocates for the Applicants.

Mrs. Karishma Jhaveri i/b. Navdeep Vora and Associates,
Advocates for the BEST Undertaking.

CORAM : S. G. DIGE, J.

DATE : 23rd FEBRUARY 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 the applicants' family. The applicants have no source of income, they need the amount for

their daily expenses. The applicants are facing starvation after the death of deceased. Hence, requested to allow the application.

3. Learned counsel for respondent - B.E.S.T. Undertaking objected to allow the application on the ground that the accident had occurred due to sole negligence of the deceased. The claim petition, out the said said accident, filed by the claimants in other matter, is dismissed by the Tribunal but, in the present matter, the Tribunal has awarded compensation which is challenged by the respondent by way of appeal. Hence, requested to dismiss the application.

4. I have heard both learned counsel. The deceased was the sole earning member of the applicants' family. The applicants need the amount for their daily expenses. The applicants have no source of income. The grounds raised by the respondent can be considered at the time of final hearing of the appeal. Hence, I pass the following order :

ORDER

1. The application is allowed.

2. The applicants are permitted to withdraw the 25% amount along with accrued interest therein, out of the deposited amount, on furnishing undertaking.

The application is disposed of.

(S. G. DIGE, J.)