

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 17520 OF 2023

IN

FIRST APPEAL NO. 782 OF 2023

Kala Vishwanath Warriar & Ors.

..... Applicants

In the matter of :

Bajaj Allianz General Insurance Company Ltd.

.... Appellant

Versus

Kala Vishwanath Warriar and Ors.

.... Respondents

.....

Mr. Devendranath S. Joshi, Advocate for the Applicants.

Ms. Rina Kundu, Advocate for Respondents.

.....

CORAM : SHIVKUMAR DIGE, J.

DATE : 30th NOVEMBER, 2023.**P.C. :**

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

2. It is the contention of learned counsel for the Applicants that the deceased was the sole earning member of the Applicants' family. Applicants have no source of income. They need the amount for education of Applicant Nos. 2 and 3. Hence requested to allow the application.

3. Learned counsel for the Appellant-Insurance Company strongly

objects to the same. He submits that the insured vehicle was not involved in the accident. In the FIR there is no mention of involvement of offending vehicle. In hospital papers it is mentioned that dash was given by the lorry whereas the insured vehicle was a Dumper. But this fact is not considered by the Tribunal. Hence requested to reject the application.

4. I have heard both the learned Counsel. The deceased was a sole earning member of the applicants' family. They need the amount for education of applicant Nos. 2 and 3. The Tribunal has passed Award against the Appellant- Insurance Company. The issues raised by the Appellant -Insurance Company can be considered at the time of final hearing. Considering this facts, I pass following order:

ORDER

- (i) Application is allowed.
- (ii) Applicants are permitted to withdraw 25% amount out of deposited amount along with accrued interest thereon, subject to filing usual undertaking.

5. Application is disposed of.

(SHIVKUMAR DIGE, J.)

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