

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1323 OF 2023

IN

FIRST APPEAL NO. 322 OF 2023

Sardar Babaso Aswale and Ors.

... Applicants

IN THE MATTER BETWEEN

Maharashtra State Road Transport Corporation Limited

... Appellant

Versus

Sardar Babaso Aswale and Ors.

... Respondents

.....

Mr. S. G. Thorat, Advocate for the Applicants

Mr. D.D.Rananaware, Advocate for Appellant

CORAM : SHIVKUMAR DIGE, J.

DATE : 22nd DECEMBER, 2023

P.C. :

1. Heard learned counsel for the applicants.
2. By this application, applicants are seeking withdrawal of amount. It is the contention of learned counsel for the applicants that deceased was the sole earning member of applicant's family. Applicants have no source of income, they need the amount for daily expenses. Hence, requested to allow the application.

3. Learned Counsel for the appellant/ Insurance Company submits that there was contributory negligence of the deceased in the said accident but it was not considered by the Tribunal. Moreover, the Tribunal has considered monthly income of the deceased on the higher side hence, requested to reject the application.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Kolhapur (for short “**the Tribunal**”). The deceased was the sole earning member of the applicants’ family. Applicants need the amount for their daily expenses. Applicants have no source of income. The grounds raised by the respondents can be considered at the time of final hearing of the appeal. Hence, Considering this fact, I pass following order :

ORDER

- (i) The application is allowed.
- (ii) Applicants are permitted to withdraw the 50% amount out of deposited amount along with accrued interest thereon on furnishing usual undertaking.

5. The application is disposed off.

(SHIVKUMAR DIGE, J.)