

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

**CIVIL APPLICATION NO. 2430 OF 2022 IN
FIRST APPEAL NO.694 OF 2021**

Cholamandalam MS General Insurance Co. Ltd. ..vs.. Smt. Vimal wd/o Udhav Rajguru and ors.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mrs. Mrunal Naik, Advocate for the appellant.
Shri S.P. Pawar, Advocate for the respondent nos. 1 to 4.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 02, 2023.

Heard.

2. By this application, the original claimants are seeking withdrawal of the amount on the ground that the claimant no.1 is the widow and claimant nos. 2 and 3 are the children of the deceased. Due to accidental death of the deceased, they have lost their earning source.

3. Though award is passed in their favour, they have not received the single penny.

4. Said application is strongly opposed by the learned Counsel for the appellant on the ground that the judgment and award passed by the Motor Accident Claims Tribunal is challenged mainly on the ground of quantum.

5. It is submitted by Mrs. Naik, learned Counsel for the appellant that the trial Court has considered the salary slip of the deceased. After joining of service, within one month, the deceased died due to the accident. The material evidence was not adduced and the trial Court granted the compensation on the basis of said salary slip.

6. Heard both the sides and perused the record.

7. Considering the rival submissions of both the parties, at this stage it will be just and proper to permit the original claimants to withdraw 50% of the amount on usual undertaking.

8. Hence, the original Claimants/applicants are permitted to withdraw 50% of the amount deposited by the appellant-Company on usual undertaking.

9. Civil application is disposed of.

FIRST APPEAL NO. 694 OF 2021

Heard.

2. Learned Counsel for the original claimants/respondents submitted that he filed a Pursis as respondent No.4 is died.

3. All the legal representatives are already on record.

4. The appellant to take necessary steps to delete the name of respondent No.4.

5. Stand over to four weeks.

(URMILA JOSHI-PHALKE, J.)

**Divya*