

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1269 OF 2023
IN FA/626/2022

Yogita W/o Yogesh Kokate And Ors

VERSUS

Bajaj Allianz General Insurance Co. Ltd., Thr Its Branch Manager,
Aurangabad And Ors

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Advocate for Applicant : Mr. Shatilal J. Gaike And V.R. Thorat

Advocate for Respondent No.1 : Mr. M.R. Deshmukh

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CORAM : S.G. MEHARE, J.

DATED : JANUARY 12, 2024

PER COURT:-

1. Heard learned counsel for the applicants and learned counsel for the insurer.
2. The insurer is opposing the application mainly on the ground that it was a fake compensation claim. It was transpired in the investigation that the deceased himself was driving the vehicle and he dashed against the stationery truck. However, the record was manipulated and he was shown occupying the seat in the car owned by his father which was insured with the appellant/insurance company. Therefore, prima facie they are not entitled to withdraw the amount.
3. Per contra, learned counsel for the applicants would submit that the Hon'ble Tribunal appreciated the evidence and disbelieved the defence. The deceased had a wife and two small

(2)

children. They were dependent on them. Applicant no.1 has no income source and she is unable to maintain her two children. Therefore, atleast for maintenance purpose, some amount may be granted to her.

4. In the facts of case, the following order is passed :

ORDER

- I) The application is partly allowed.
- II) Applicant nos.1 to 3 are allowed to withdraw Rs.5,00,000/- (five lakh) from the amount deposited by the insurance company.
- III) Applicant no.1 – Yogita should deposit Rs.2,00,000/- (two lakh) each in the name of applicant nos.2 and 3, Yash Yogesh Kokate and Aayush Yogesh Kokate in a fixed deposit in any of the nationalized bank. Bank would grant quarterly interest for their maintenance.
- IV) Applicant no.1 is allowed to withdraw Rs.1,00,000/- (one lakh) for herself, on the undertaking that if the judgment is reversed, the entire amount with the bank rate interest will be deposited.

(S.G. MEHARE, J.)