



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

907 CIVIL APPLICATION NO. 2787 OF 2024
IN FA/4354/2023

ATUL VYANKATI GHUGE AND ORS

VERSUS

THE NEW INDIA ASSURANCE COMPANY LTD THROUGH ITS
BRANCH MANAGER AND ORS

...

Advocate for Applicants : Mr. K.N. Shermale h/f Mr. Sayyed
Umair Pasha A Quader (through V.C.)

Advocate for Respondent No.1 : Mr. A.G. Choudhari (Through
V.C.)

...

CORAM : S. G. MEHARE, J.

DATE : 07th MAY, 2024.

PER COURT :

1. Heard the learned Counsel for the respective parties.
2. There is a serious dispute about the involvement of the offending vehicle in the accident. Both learned Counsel have argued on this issue. The learned Counsel for the applicants relied on the observations of the learned Tribunal and the learned Counsel for the non Applicant insurer relied on the factual aspects, contrary statements of eye witnesses and

delay in lodging in the FIR. The deceased was driving the bike and the so called eye witness was the passerby.

3. Though the serious issue of not involving the offending vehicle and causing the accident by the another vehicle is raised, the facts remain that an accident happened. The appeal would take its time, therefore, in the interest of justice the application is liable to be allowed partly. Hence the following order :

ORDER

- a) The application is partly allowed.
- b) The applicants are allowed to withdraw 50% of the amount with proportionate interest accrued on it, deposited with this Court, on undertaking that they would re-deposit the money, if the impugned judgment and award is reversed.
- c) The amount be apportioned equally.

(S. G. MEHARE)
JUDGE

mahajansb/