



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1001 CIVIL APPLICATION NO. 9045 OF 2024 (withdrawal)
IN FAST/8236/2024

Mangalabai Somnath @ Soma Sonawane And Ors

VERSUS

Rajendra Digambar Patil And Anr

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Adv for Applicant: Ms Kirti Deshpande h/f M.M. Bhokariker
Advocate for Respondent 2 : Mr. S.S. Patil h/f R H. Dahat

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WITH

CIVIL APPLICATION NO. 4068 OF 2024 (delay)
IN FAST/8236/2024

WITH

CIVIL APPLICATION NO. 4069 OF 2024 (stay)
IN FAST/8236/2024

Sbi General Insurance Co.ltd Thr Its Legal Officer

VERSUS

Mangalbai Somnath Alias Soma Sonawane And Ors

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Advocate for Applicant : Mr. S.S. Patil h/f Dahat Rohit H.
Advocate for Respondents : Ms. Kirti Deshpande h/f M.M. Bhokariker

CORAM : S. G. CHAPALGAONKAR, J.

Dated : August 23, 2024

PER COURT :-

1. The applicants are seeking withdrawal of the amount deposited by the Respondent Insurance Company in pursuance of the Award dated 7.7.2023 passed in MACP No. 27 of 2020.

2. Learned advocate appearing for the applicants submits that applicants have lost bread winner of the family in

motor vehicular accident. The learned Tribunal, after considering the relevant factors passed just and proper award. The applicants are in need of money. Hence, they urges to release the amount deposited in this Court.

3. Mr. Swapnil Patil h/f Mr. Dahat, learned counsel appearing for respondent Insurance Company opposed the application. He submits that Tribunal has rightly considered that the appellant/insurer is not liable to pay the compensation, however, passed Award in the nature of pay and recover. According to him, said award is not sustainable in law in the facts and circumstances of the case.

4. Having considered submissions advanced, it can be observed that there is no dispute about accidental death of deceased in the accident involving insured vehicle. So far as liability part is concerned, the Tribunal although held that the insurer may not be liable to pay the compensation, however, relying upon the judgment of the Supreme Court in case of **Shivaraj Vs. Rajendra reported in 2018 AAC1863** passed the award in the nature of pay and recover. Merits of the contentions can be considered at the time of final hearing of the appeal. However, considering exigency of the claimants, it would be appropriate to release 50% of the amount to the claimants subject to condition that the applicants files usual undertaking to the satisfaction of the Registrar (Judicial) of this Court. Civil application for withdrawal of amount stands **disposed off.**

Delay application :-

5. Heard Mr. Patil learned advocate appearing for the applicant.

6. Having considered submissions advanced and averments in the application, case is made out to condone the delay. Hence, delay is condoned. Application stands **disposed off**.

7. Appeal be registered. On registration of the appeal, issue notice to the Respondents, returnable on 4.10.2024. Learned counsel waives notice for original claimants.

8. Call for record and proceeding.

Stay Application :-

9. Mr. Patil, learned counsel appearing for the applicant submits that entire amount covered under award is deposited with the Registry of this Court. Consequently, civil application stands allowed in terms of prayer clause 'B' and disposed off.

(S. G. CHAPALGAONKAR)
JUDGE

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