



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

**76 CIVIL APPLICATION NO. 10872 OF 2024
IN FAST/8598/2024**

ARUN GANESH BHOYE AND OTHERS
VERSUS
BRANCH MANAGER NEW INDIA ASSURANCE CO LTD

...
Advocate for Applicant : Mr. Mayure C. Pramod.

Advocate for Respondent No.1 : Ms. Anagha Vasantrya Rotte.

...
AND

**CIVIL APPLICATION NO. 4051 OF 2024
IN FAST/8598/2024**

BRANCH MANAGER, NEW INDIA ASSURANCE CO LTD
VERSUS
ARUN GANESH BHOYE AND OTHERS

...
Advocate for Applicant : Ms. Anagha Vasantrya Rotte.

...
AND

**CIVIL APPLICATION NO. 4052 OF 2024
IN FAST/8598/2024**

BRANCH MANAGER, NEW INDIA ASSURANCE CO LTD
VERSUS
ARUN GANESH BHOYE AND OTHERS

...
Advocate for Applicant : Ms. Anagha Vasantrya Rotte.

...

CORAM : **KISHORE C. SANT, J.**

DATE : 17th October, 2024.

P.C.:

. Heard the learned counsel for the parties.

Application for condonation of delay:

2 The learned counsel for the applicant submits that in fact on the

very same address the respondents were served in the Trial Court. In view of the same, re-issue notice to the respondents on the same address, returnable on 2nd January, 2025. The applicant is at liberty to serve the unserved respondents by way of private mode of service, in addition to regular service, and file affidavit to that effect.

Application for stay:

3 Since the entire amount alongwith interest is deposited in this Court, there shall be stay to the impugned judgment and order till disposal of appeal. The application stands allowed and disposed of.

Application for withdrawal of amount:

4 The application is heavily contested by the learned counsel for appellant/insurance company. She submits that in the appeal the ground of non-involvement of the vehicle is taken. She submits that though the accident took place no immediate number of the vehicle was given by anyone. It is only after 8 days of the accident one Somesh and Vikas mentioned the number of the vehicle to the police. However, in the Court Vikas is not examined. Somesh in his evidence stated that Vikas had noted the number of the vehicle. However, as Vikas is not examined as stated above, this creates a doubt. She therefore, submits that mentioning of the vehicle is after thought and requests to reject the application.

5 Considering that the applicants have lost the earning member of the family, it would be in the interest of justice to allow the applicants to withdraw 50% of the amount deposited in this Court alongwith accrued interest. Hence, the following order:-

ORDER

- I. The applicants are permitted to withdraw 50% of the amount alongwith accrued interest deposited in this Court on furnishing usual undertaking. The remaining amount be kept in fixed deposit in any nationalized bank till disposal of the appeal.
- II. With this, the civil application for withdrawal of amount stands disposed of.

[KISHORE C. SANT, J.]

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