



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1008 CIVIL APPLICATION NO. 9086 OF 2024 (withdrawal)
IN FAST/8683/2024

Radha Machindra Ghodke And Other

VERSUS

New India Assurance Company Ltd Through Its Branch
Manager

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Advocate for Applicant : A.S. Jagtap h/f Mr. S.S. Dargad

Advocate for Respondent 1 : Mr. Abhijit G Choudhari

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WITH

CIVIL APPLICATION NO. 3599 OF 2024 (Delay)
IN FAST/8683/2024

WITH

CIVIL APPLICATION NO. 3600 OF 2024 (stay)
IN FAST/8683/2024

New India Assurance Company Ltd Through Its Branch
Manager

VERSUS

Radha Machindra Ghodke And Other

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Advocate for Applicant : Mr. A.G. Choudhari

Advocate for Respondents : A.S. Jagtap h/f S.S. Dargad

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : August 23, 2024

PER COURT :-

1. Heard learned advocates appearing for respective parties.
2. The applicants seek withdrawal of the amount deposited by the respondent/insurance company in pursuance

to the award passed by the Tribunal under the provisions of section 166 of the Motor Vehicles Act.

3. Learned counsel appearing for the applicants submits that applicants have lost bread winner of the family. The Tribunal, after considering relevant aspects of the matter passed the award, which is just and proper. The applicants are in need of money. Therefore, he seeks permission to withdraw the amount.

4. Per contra, Mr. Choudhary, learned advocate appearing for respondent no.1/insurance company vehemently opposed the application. He submits that Tribunal has considered income of the deceased firstly from his profession as driver and secondly loss of agriculture. He submits that so far as agriculture income is concerned, there is no evidence to justify such award.

5. Having considered the submissions advanced, it is apparent that insurer is assailing the award passed by the Tribunal only on the ground of quantum. There is no dispute that deceased lost his life in the accident involving insured vehicle and claimants were his dependents.

6. Considering the exigency as made out in the application, application deserves to be allowed. Hence order.

O r d e r

- i. The application is allowed.
- ii. The applicants are permitted to withdraw 60% of the amount deposited with the Registry of this Court on furnishing usual

undertaking to the satisfaction of the Registrar (Judicial) of this Court.

- iii. Rest of the amount be kept in fixed deposit till final disposal of the appeal.
- iv. Civil application for withdrawal of amount stands **disposed off**.

CA 3599/2024 (Delay)

7. The applicants to take steps against unserved respondent nos.5 and 6 .

8. Mr. Choudhary makes oral request that the applicant may be permitted to serve respondents no.5 and 6 by way of paper publication notice.

9. The applicants shall serve respondent nos.5 and 6 through widely circulated newspaper in District Beed within a period of 8 weeks and furnish copy of such publication to Registry of this Court. Stand over to Ten weeks.

CA 3600/2024 (Stay) :-

10. Learned counsel appearing for the applicant submits that the entire amount under Award has been deposited with the Registry of this Court.

11. Consequently, civil application is allowed and disposed off.

(S. G. CHAPALGAONKAR)
JUDGE

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