



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

7 CIVIL APPLICATION NO. 5126 OF 2024
IN FAST/8404/2023
WITH
CIVIL APPLICATION NO. 3559 OF 2023
IN FAST/8404/2023
WITH
CIVIL APPLICATION NO. 3560 OF 2023
IN FAST/8404/2023

Smt Jayashree Chandrakant Patil And Ors
VERSUS
Avinash Vsantrao Patil And Anr

...
Advocate for Applicant : Mr. M.M. Bhokarikar
Advocate for Respondent No. 2 : Mr. M.R. Deshmukh
...

CORAM : KISHORE C. SANT, J.
Dated : June 13, 2024

PER COURT :-

1. In Civil Application No. 3559/2023 filed for delay condonation, applicant/appellant to take steps as regards deceased respondent Nos. 4 and 5 within four weeks from today.
2. Civil Application No. 5126/2024 is filed for withdrawal of amount by the claimants/respondents in the appeal. Heard for some time.
3. The learned advocate for the appellant has vehemently opposed the application by submitting that there is no sufficient evidence to show the involvement of the vehicle insured by the Insurance Company. The accident took place on 4.5.2016 and till 22.5.2016 no F.I.R. was lodged. For the first time on 22.5.2016 F.I.R. came to be

lodged showing the involvement of the vehicle. Before the Court also, it is clearly brought on record in cross examination that only on suspicion, the vehicle was said to be involved. It has also come on record that no witness has actually seen the accident. The person, who lodged the F.I.R. is not examined by the original claimant. So, the learned counsel for the appellant/Insurance Company submits that there are good chances of success in the appeal and he opposes the application for withdrawal of amount.

4. Considering the submissions and prima-facie case, this Court is inclined to allow the application partly only to the extent of 50% of the amount deposited by the Insurance Company. Hence, the following order.

ORDER

(i) The applicants/respondents in appeal are permitted to withdraw only 50% of the amount deposited by the Insurance Company in this Court along with accrued interest on furnishing an undertaking that in case, the appeal is allowed, the applicants shall re-deposit the amount with interest within twelve weeks from the date of said judgment. If respondent Nos. 2 and 3 are minors, their amount be allowed to be withdrawn only on attending the majority. The application stands disposed of.

(KISHORE C. SANT, J.)