



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

12 CIVIL APPLICATION NO. 5512 OF 2024
IN FA/3929/2023

SMT MADHURI DNYANESHWAR PATIL AND ORS
VERSUS
CHOLAMANDALAM MS GENERAL INSURNACE COMPANY
LIMITED AND ANR

...
Advocate for Applicant : Mr. Mayure Pramod C.
Advocate for Respondent No. 1 : Mr. A.S. Usmanpurkar
...

CORAM : KISHORE C. SANT, J.

DATE : 18th JUNE, 2024.

PER COURT :

1. This application is filed by the Original Claimants, who happens to be the widow and children of the deceased.
2. Learned Advocate Mr. Usmanpurkar, for appellant Insurance Company vehemently opposes the application stating that in the appeal a ground of contributory negligence is taken. He further submits that the notional income of the deceased is taken to be Rs. 10,000/- which is quite high and there is no

satisfactory proof of the claim etc.

3. Considering the fact that the deceased was a driver and was also owner of the vehicle involved in the accident. Prima-facie considering his income to be Rs. 10,000/- p.m. cannot be said to be exorbitant. Interest can be secured in case the amount is withdrawn by taking undertaking and security from the applicants. Hence the following order ;

ORDER

a) The Civil Application is allowed and disposed off.

b) The applicants are allowed to withdraw 50% of the amount deposited in this Court on furnishing usual undertaking, to the satisfaction of the Registrar (Judicial) of this court that in case the appeal is allowed, they shall re-deposit the amount with interest accrued on it within a period 12 weeks thereafter.

c) The undertakings of applicant Nos. 2 and 3 be filed by the applicant No. 1.

d) The amount be disbursed to the applicants in equal proportionate alongwith interest accrued on it.

e) Further, 25% of the amount is allowed to be withdrawn on furnishing solvent surety/security to the satisfaction of the learned Registrar (Judicial) of this Court.

f) Remaining amount of 25% be deposited in Fixed Deposit, in any Nationalized Bank till the decision of the appeal.

(KISHORE C. SANT)
JUDGE

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