



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

990 CIVIL APPLICATION NO. 8748 OF 2024 (withdrawal)
IN FA/1007/2024

Sunayana Vijay Patil and others

VERSUS

The Bajaj Allianz General Insurance Company Ltd

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Advocate for Applicant : Mr. Patil Shrikant S.

Advocate for Respondent 1 : Mr. M. R. Deshmukh

Mr. B.L. Patil advocate for respondent No.5.

CORAM : S. G. CHAPALGAONKAR, J.

Dated : August 23, 2024

PER COURT :-

1. By this application, the applicants/original claimants are seeking withdrawal of the amount deposited by the appellant insurance company in pursuance of the award passed by the Tribunal under section 166 of the Motor Vehicles Act.

2. Mr. Patil, learned advocate appearing for the applicants submits that deceased was highly educated person and maintaining his family. He died in a motor vehicular accident. The claimants have lost bread winner and, therefore, they seeks permission for withdrawal of the amount deposited by the insurance company in pursuance of the award passed by the Tribunal.

3. Mr. Deshmukh, learned counsel appearing for the Respondent-insurance company vehemently opposed the prayer. He submits that this is a case of contributory negligence. Deceased was driving the car, ramped into tailor.

In the alternate, he submits that even if it is assumed that **deceased** was occupant, this is a case of contributory negligence.

4. Having considered the submissions advanced, it is apparent that deceased lost life in the motor vehicular accident. Driver of the offending vehicle was prosecuted by the police authorities. No evidence is brought on record to controvert contents of police papers. Deceased was salaried man and income tax payer. Assessment of the compensation is passed on impeachable evidence. Consequently, there is no impediment in permitting the claimants to withdraw **75%** of the amount deposited by the appellant/insurance company subject to filing of usual undertaking to the satisfaction of the Registrar (Judicial) of this Court. Civil application stands **disposed off**.

5. The amount that falls to the share of minor applicant no.2 shall be kept in the fixed deposit in her name.

(S. G. CHAPALGAONKAR, J.)

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