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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**939 CIVIL APPLICATION NO. 6964 OF 2024
IN FAST/37495/2023**

NANDA SUNIL THOMBARE AND ORS

....Applicants

VERSUS

**THE MANAGER CHOLAMANDALAM MS GENERAL INSURANCE
CO LTD AND ORS**

.....Respondents

Mr. D. A. Bide, Advocate for the applicants

Mr. A. B. Gatne, Advocate for respondents through VC

CORAM : KISHORE C. SANT, J.

DATE : 01st AUGUST, 2024

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1. Heard.

2. The application is opposed by the learned advocate for respondent. He submits that there are goods grounds involved in the appeal. The appeal is filed on the ground of negligence and quantum and also on the ground that the income of the deceased is not proved by the claimants.

3. He submits that in fact before the court the bank statement is produced to show that Prabhat Agency was directly crediting the commission in the account of the deceased. He further submits that to prove negligence it is necessary to examine the driver of the tractor to which vehicle of the deceased dashed. On the point of quantum the court has rightly considered the income of Rs.49000/- per month. In any case it cannot be said to be exorbitant looking to the business that was carried out by the deceased.

4. Considering the submission this court is inclined to partly allow the application. Hence, the following order:-

ORDER

- i] The application stands partly allowed.
- ii] The applicants are permitted to withdraw 50% of the deposited amount alongwith accrued interest by furnishing usual undertaking.
- iii] The application stands disposed off.

[KISHORE C. SANT, J.]