



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

1028 CIVIL APPLICATION NO. 8620 OF 2024
IN FAST/966/2024

Kaushalya Santosh Mahanwar & othersApplicants

VERSUS

Shriram General Insurance Company Limited
& anotherRespondents

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Mr. S. B. Choudhari, Advocate for Applicants.

Mr. A. P. Basarkar, Advocate for Respondent No. 1.

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 16th AUGUST, 2024.

PER COURT :

1. Original claimants are seeking withdrawal of the amount deposited by insurance company in pursuance to the award passed by the Tribunal in MACP No. 35/2018.

2. Mr. Choudhari, learned counsel for the applicants submits that the deceased was 34 years of age. He died leaving behind a widow, two children and parents. They were dependent on his income. The Tribunal has passed the award in their favour. They are in the need of money.

3. Learned counsel for Respondent/insurance company vehemently opposes the prayer and submits that the insurer is assailing the award on the ground of false involvement of the vehicle. He points out that delay is of one month in filing First Information Report and there is no acceptable evidence to bring on involvement of the vehicle insured. He would also submit that the Tribunal has erroneously considered notional income at the rate of Rs. 10,000/- per month.

4. Having considered the submissions, it is apparent that death of bread winner of the applicants cannot be disputed on account of motor vehicle accident. The Tribunal observed that the spot panchanama was drawn immediately after the accident and after due investigation, the vehicle insured was traced out to be offending vehicle. The Tribunal has also deducted 30% amount on the ground that the deceased was not wearing helmet. All the issues raised by the appellant-insurance company would be considered at the time of final hearing. However, considering the exigency of the claimants, it would be appropriate in the interest of justice to permit them to withdraw 50% of the amount deposited with the Registry of this

Court on furnishing usual undertaking to the satisfaction of the Registrar (Judicial). Application stands disposed of.

(S. G. CHAPALGAONKAR)
Judge

dyb