



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

1030 CIVIL APPLICATION NO. 8624 OF 2024 IN FAST/4052/2024

Manda Balaji Thorat And Ors

VERSUS

Vyankati Shettiba Wallep And Ors

...

Advocate for Applicant : Mr. T.K. Nagar h/f K. M. Nagarkar

Advocate for Respondents : Mr. V R. Mundada For R/4

...

AND

**1032 CIVIL APPLICATION NO. 8636 OF 2024
IN FAST/4275/2024**

Manda Balaji Thorat And Others

VERSUS

Vyankati Shettiba Wallep And Ors

...

Advocate for Applicant : Mr. T.K. Nagar h/f K. M. Nagarkar

Advocate for Respondent 4 : Mr. Anil P. Basarkar

...

CORAM : S. G. CHAPALGAONKAR, J.

Dated : August 16, 2024

PER COURT :-

1. The applicants in both these applications are the original claimants in MACP No.371 of 2017. The appellant insurance company has assailed the award passed by the Tribunal in MACP No.371 of 2017. This Court while issuing notice on application for grant of stay, directed the appellant/insurer to deposit compensation amount with the Registry of this Court. The insurance company in appeal deposited 50% of the compensation amount. The claimants are seeking withdrawal of the amount deposited by the insurance company.

2. Learned counsel appearing for the applicants submits that deceased was the sole bread winner of the family and claimants were dependent on his income. The learned Tribunal, after considering evidence on record, held applicants to be entitled for compensation of Rs.30,65,000/-. The applicants are in need of the compensation amount. Hence, prays for withdrawal of the amount.

3. Learned advocate appearing for the insurance company opposed the application on the ground that this is a case of false implication of insured vehicle. There is delay of 47 days in lodging the FIR. The claimants could not examine any eye witness although such witnesses were available. The Tribunal without considering crucial defences of the insurance company passed the impugned award.

4. Pertinently, there is no dispute that deceased died on account of accidental injuries in motor vehicular accident. At present, Tribunal had passed the award accepting the claim as raised by the applicants. The applicants were dependents of the deceased. In this background, without prejudice to merits of the contentions, applicants in both these applications are allowed to withdraw 25% of the compensation amount deposited by the Insurance on furnishing usual undertaking to the Satisfaction of the Registrar (Judicial) of this Court. Civil applications stand disposed off.

(S. G. CHAPALGAONKAR, J.)

...

aaa-