



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

**CIVIL APPLICATION NO. 14785 OF 2023
IN FAST/23616/2023 WITH C.A. NO. 9779/2023
IN FAST/23616/2023 WITH C.A.NO. 9780 OF 2023
IN FAST/23616/2023**

Kantabai Samadhan Mhaske And Ors

....Applicant

VERSUS

The New India Assurnace Co Ltd Through Its Divisiional Manager And
Ors

.....Respondent

.....

Advocate for Applicant : Mr. Devakate Anant Ramahari

Advocate for Respondent No.1. : Mr. A.B. Kadethankar

....

CORAM : S. G. MEHARE, J.

DATE : 19.01.2024

**CIVIL APPLICATION NO. 14785 OF 2023
IN FAST/23616/2023**

1. Heard the learned counsel for the applicants.
2. The learned counsel for the insurer/appellant opposed the application contending that legal points have been involved in this case. However, the entire amount has been deposited. He would submit that they have great chances of success in the appeal. Hence, the application may be dismissed.
3. The learned counsel for the applicants would submit that the award is legal and proper. There are no grounds to interfere with the

impugned award. The applicants are dependents of the deceased. Hence, they are entitled to withdraw the amount. Considering the ground of objections to the impugned award, the following order is passed. 1

ORDER

- (i) The application is partly allowed.
- (ii) The applicants are entitled to withdraw 25% of the amount deposited, proportionate to their share, as the Member of Motor Accident Claim Tribunal Jalna has determined, with proportionate interest on the undertaking that they would deposit the amount if the award is reversed.

CIVIL APPLICATION NO. 9779 OF 2023 IN F.A. (STAMP) No. 23616 OF 2023

- 4. The applicant seeks condonation of 115 days delay in preferring the appeal.
- 5. The respondents opposed the application.
- 6. For the reasons mentioned in the application, the application deserves to be allowed. Hence, the following order :-

ORDER

- (i) The application is allowed.
- (ii) The delay caused to preferring the appeal is condoned.
- (iii) Office to register the appeal.

CIVIL APPLICATION NO. 9780 OF 2023 IN FIRST APPEAL (STAMP NO.) 23616 OF 2023

7. Since the amount is deposited as directed by this Court, the execution, implementation and effect of the impugned award is stayed till the conclusion of the appeal. The civil application for stay is accordingly allowed.

8. The first appeal is admitted.

9. Issue notice to the respondents, the learned counsel Mr. A. B. Kadethankar waives service of the notice for respondents.

10. Call record and proceeding.

11. List the matter on 28th March 2024.

(S. G. MEHARE)
JUDGE

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