



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

**911 CIVIL APPLICATION NO. 10164 OF 2024
IN FAST/11411/2024**

KUNDALIK S/O MAHADU MOHITE AND ANR

VERSUS

THE MAGMA HDI GENERAL INSURANCE AND ORS

WITH

**CIVIL APPLICATION NO. 5080 OF 2024
IN FAST/11411/2024**

WITH

**CIVIL APPLICATION NO. 5081 OF 2024
IN FAST/11411/2024**

Mr.P.V. Mayure h/f. Mr. V.S. Badakh, Advocate for the applicants.
Mr.R.H. Dahat, Advocate for respondent No.1.

**CORAM : KISHORE C. SANT, J.
DATE : 13.12.2024**

PC :-

CIVIL APPLICATION FOR WITHDRAWAL OF AMOUNT.

01. Heard learned Advocates for the parties. This application is filed for withdrawal of amount of compensation deposited by the appellant in this Court along with accrued interest. The application is opposed on the ground that the deceased was traveling in a closed commercial vehicle meant for carrying cold storage products as a gratuitous passenger and therefore is not covered in the insurance policy. Further ground agitated is that the income of the deceased was taken on much higher rate of Rs.15,000/- per month. Considering that the applicants are parents of the deceased, this Court is inclined to allow this application partly as under :-

- (i) The applicants are permitted to withdraw 50% of the amount deposited in this Court along with accrued interest on furnishing usual undertaking.
- (ii) Remaining amount be kept in the fixed deposit in any nationalized bank to be renewed from time to time till disposal of the appeal.
- (iii) Civil Application is accordingly allowed and is disposed off.

CIVIL APPLICATION FOR STAY

01. Since the amount of compensation is already deposited in this Court, there shall be stay to the impugned judgment and award till disposal of the appeal.

02. Civil Application for stay is accordingly allowed and is disposed of.

CIVIL APPLICATION FOR CONDONATION OF DELAY

01. There is delay of only 21 days caused in filing the appeal. For the reasons stated in the application, the delay is condoned. The application is allowed.

[KISHORE C. SANT, J.]