



(1)

43-CA-10570-2024

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

43 CIVIL APPLICATION NO. 10570 OF 2024
IN FA/1234/2024

Panchashilabai Satish Naewade And Anr

VERSUS

Go Digit General Insurance Co Ltd Trough Its Branch Manager

WITH

CIVIL APPLICATION NO. 5348 OF 2024
IN FA/1234/2024

...

Mr. Ravindra V. Gore, Advocate for Applicant.

Mr. Mohit P. Deshmukh Advocate for Respondent No.1.

CORAM : KISHORE C. SANT, J.

DATE : 6th DECEMBER 2024

PC :-

1. Heard.
2. This application is filed for withdrawal of the amount. The appellant has already deposited the entire amount in this Court pursuant to impugned judgment and award.
3. The application is opposed by the learned Advocate for Mr. Deshmukh appearing for Respondent stating that the risk of the deceased was not covered under the Insurance Policy. The deceased was

a gratuitous passenger travelling in the vehicle. Secondly, he submits that the income of the deceased was taken at the rate of Rs.15,000/- per months, without their dues any sufficient evidence. The deceased was working as a helper. Since the deceased was bachelor, the amount towards his personal expenses ought to have been taken as 50%.

4. The learned Advocate for the applicant shows that the Manager working with the employer of the deceased attached to Human Resources Section, has deposed on him that the deceased was receiving wages at the rate of Rs.453.84 per day. There is also a bank statement. However, the said bank statement shows that the amount of Rs.6,000/- is transferred by the employer. Learned Advocate for the applicant further points out that there is already an order to pay and recover. He thus prays for withdrawal of the amount.

5. However, considering the above, the following order:-

ORDER

- (i) Application is allowed.
- (ii) Applicants are permitted to withdraw 50% of the amount alongwith accrued interest on furnishing usual undertaking.

(ii) Remaining amount be kep in any fixed deposited in any nationalized bank pending the appeal.

FIRST APPEAL

1. Call for record and proceedings.
2. The parties are put to notice that if time permits this Court may take up this appeal for final disposal at the stage of admission.

[KISHORE C. SANT, J.]

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