



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

**918 CIVIL APPLICATION NO. 12252 OF 2024
IN FA/1341/2024**

NASEEM BANO MOHAMMAD JAMEEL MANSURI PINJARI AND OTHERS
VERSUS
GAUTAM PANDURANG BAGUL AND ORS

...
Advocate for Applicant : Mr. Amol Khedkar.
Advocate for Respondent No.3 : Mr. Mohit R. Deshmukh.

...
AND
CIVIL APPLICATION NO. 5950 OF 2024
IN FA/1341/2024
...

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

DATE : 21st November, 2024.

P.C.:

. Heard the learned counsel for the parties.

Application for condonation of delay and appeal:

2 The applicant / appellant to take steps to serve respondent No.6.

Application for stay:

3 Since the amount is already deposited, there shall be stay to the impugned judgment and order till the disposal of the appeal. The application stands disposed of.

Application for withdrawal of amount:

4 This application is for withdrawal of the amount deposited by the

appellant / insurance company in the office of this Court.

5 Applicant No.1 is the wife, applicant Nos.2 and 3 are the daughters and applicant No.4 is the son. Applicant Nos.1, 2 and 3 are major, whereas applicant No.4 is minor.

6 The application is opposed by Mr. Deshmukh, learned counsel for the appellant. He submits that the involvement of the vehicle is doubtful. No one has seen the actual accident giving dash by the vehicle. One of the persons only chased the offending vehicle and under impression that it must be the same vehicle, has deposed before the Court. He, thus, submits that there are chances of success in the appeal. He submits that the deceased was not in regular employment as he was only used to play a Banjo in the band. The said employment is seasonal employment and still the Court has considered his income to be regular and has awarded excessive amount.

7 From the judgment it appears that the story is not totally doubtful. The photographs of the vehicle are on record. It is not disputed that the vehicle was passing by the road and has subsequently found at some distance. Considering the above, the following order is passed:-

ORDER

- I. Applicant Nos.1, 2 and 3 are permitted to withdraw an amount to the extent of 50% alongwith interest on

furnishing usual undertaking. Further 25% of the amount with accrued interest is allowed to be withdrawn on furnishing solvent surety/security to the satisfaction of the learned Registrar (Judicial) of this Court. The remaining amount be kept in fixed deposit in any nationalized bank till disposal of the appeal.

- II. With this, the civil application for withdrawal of amount stands disposed of.

[KISHORE C. SANT, J.]

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