



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

CIVIL APPLICATION NO. 201 OF 2024
IN FAST/23947/2023

ASHA SURESH BHAVSAR AND OTHERS
VERSUS
THE CHOLAMANDALAM MS GENERAL INSURANCE COMPANY LTD

...
Advocate for Applicants : Mr. Shrikant S. Patil
Advocate for Respondent No.1 : Mr. Abhijit S. Choudhari
...

CORAM : S. G. MEHARE, J.
DATE : 02-02-2024

PER COURT :-

1. Heard the learned counsel for the applicants and the learned counsel for respondent No.1/appellant.
2. The appellant/insurer has a case of contributory negligence. Hence, exoneration of another insurance company is incorrect findings of the learned Tribunal. The husband and the wife died in an accident as the offending vehicle came on the road crossing the divider. Considering the submission as regards the happening of the accident, it is doubtful. It is a case of contributory negligence. The children were minor at the time of the incident. Still they are minor, their grand-mother is taking their care. However, considering the defence, the following order is passed;

ORDER

- i) The application is partly allowed.

- ii) The applicants are entitled to withdraw Rs.90,00,000/- (Rs. Ninety Lakhs Only) from the amount deposited with this Court. Out of Rs.90,00,000/- (Rs. Ninety Lakhs Only), Rs.30,00,000/- (Rs.Thirty Lakhs Only) each be invested in the name of applicants No.2 and 3/minor children, in the fixed deposit, till they attain the majority, under the guardianship of applicant No.1/grandmother, in any Nationalized Bank, with right to accrue interest at quarterly rests.
- iii) Out of Rs.30,00,000/- (Rs.Thirty Lakhs Only), amount of Rs.15,00,000/- (Rs.Fifteen Lakhs Only) be deposited in the name of applicant No.1/grandmother with right to accrue the interest at quarterly rests and remaining Rs.15,00,000/- (Rs.Fifteen Lakhs Only) be released to her on furnishing an undertaking that she will deposit money, if the impugned judgment and award is reversed.
- iv) The rest of the amount be invested in the fixed deposit in any nationalized bank till final disposal of the appeal, as per the rules.

**(S. G. MEHARE)
JUDGE**