2024:BHC-AUG:5984

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

CIVIL APPLICATION NO. 580 OF 2024 IN FA/2967/2023

MANISHA DATTATRAYA SONAWANE AND OTHERS
VERSUS
NEW INDIA ASSURANCE CO LTD
...
Advocate for Applicants : Mr. Dattatraya R. Markad
AGP for Respondent No.1 : Mr. Abhijit Choudhari
...

CORAM : S. G. MEHARE, J.

DATE : 15-03-2024

PER COURT :-

1. Heard the learned counsel for the applicants and the learned counsel for respondent No.1.

2. It is a case of vehicular accident happened in the evening when the deceased teacher was taking evening walk.

3. Learned counsel for the non-applicant/insurer submits that the first information report was delayed by 25 days. The owner of the vehicle also specifically denied the involvement of the offending vehicle. The serious objection has been raised on the finding of the learned Tribunal accepting an explanation for delay. He submits that in such a case, it would be inappropriate to allow the applicants to withdraw the entire amount. A huge amount has been deposited. The deceased was a Teacher. Therefore, his

family must get financial assistance from his service. Therefore, they may not suffer a serious loss. There appears a substance in the submission of the learned counsel for the appellant/insurer. However, the claim of the applicant cannot be discarded in *lemine*. There may be some source to them.

3. Learned counsel for the applicants submits that at the time of filing application, applicant No.3 was minor; now, she has attained the majority. However, it appears that children are pursuing education, they may require money for their education and other day-to-day life. Therefore, their interest should be protected. Hence, the following order is passed;

ORDER

i) The application is partly allowed.

ii) The applicants are permitted to withdraw 30% of the amount deposited with this Court, with accrued interest, on furnishing undertaking that they would deposit money, if the impugned judgment and award is reversed.

iii) The money allowed to be withdrawn be apportioned equally. However, the shares of respondents No.2 and 3 be invested in fixed deposit for three years, in any Nationalized Bank of their choice, with a right to receive interest accrued at quarterly rests.

(S. G. MEHARE)
JUDGE

rrd