



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

CIVIL APPLICATION NO. 49 OF 2024
IN FA/3931/2023

SHIVKANTA GANESH SAKHARE AND OTHERS
VERSUS
CHOLAMANDALAM MS GENRAL INSURANCE CO LTD AND ANOTHER

...
Advocate for Applicants : Mr. Hamzakhan I. Pathan
Advocate for Respondent No.1 : Mr. A. S. Usmanpurkar
...

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/insurer.
2. Learned counsel for respondent No.1/insurer submits that the offending vehicle for which the appellant was the insurer was not negligent. The initial report was lodged against one Ape. However, it was not insured. Hence, another offending vehicle was shown negligent. He also submits that the married daughter and major son were not dependent on the deceased. Hence, the multiplicand is incorrectly applied. Instead of multiplicand of $\frac{1}{3}$, it was applied $\frac{1}{4}$. Hence, quantum has been exorbitant.
3. Learned counsel for the applicants/claimants submits that the learned Tribunal has specifically observed in paragraph No.25 of the Judgment that the offending vehicle was negligent at the

time of the accident. Though, son was major, he was taking education. Hence, he was dependent on the income of the deceased. However, he does not deny that one of the daughters was married. Considering this fact and issue involved in the case, following order is passed;

- i) The application is partly allowed.
- ii) The applicants are permitted to withdraw Rs.40,00,000/- with accrued interest, if any, after depositing the money with this Court.
- iii) The amount should be released to the applicants/wife and unmarried daughters proportionately as allowed above with undertaking that they would deposit the money, if the impugned judgment and award is reversed.
- iv) The share of unmarried daughter be invested in the fixed deposit in any Nationalized Bank for three years with a right to receive interest accrued with quarterly rests for their personal and educational expenses.
- v) The balance amount be deposited in fixed deposit in any Nationalized Bank as per rules, till conclusion of the appeal.

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