

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 8043 OF 2024****IN****FIRST APPEAL STAMP NO. 35425 OF 2023**

Laxmi Raju @ Rajiv Prajapati and Ors.

... Applicants

IN THE MATTER OF :

The Oriental Insurance Co. Ltd.

... Appellant

Versus

Laxmi Raju @ Rajiv Prajapati and Ors.

... Respondents

.....

Mr. Sukumar Ghanavat, Advocate for the Applicants.

Mr. Nikhil N. Pawar, Advocate for Appellant.

CORAM : SHIVKUMAR DIGE, J.**DATE : 29th APRIL, 2024.****P.C. :**

1. By this application, applicants are seeking withdrawal of amount.
2. It is contention of learned counsel for the applicants that deceased was the sole earning member of the applicants' family. They have no source of income. They need the amount for daily expenses, hence, requested to allow the application.
3. Learned counsel for the appellant-Insurance Company submits that accident occurred due to sole negligence of the deceased. There was breach of terms and conditions of the insurance policy. As per the insurance policy, the offending tractor supposed to use for agriculture

purpose only but it was used only for other purposes i.e. carrying the goods etc. but this fact is not considered by the Tribunal, hence requested to reject the application.

4. I have heard both the learned counsel. The deceased was the sole earning member of the applicants' family. The applicants have no source of income. They need the amount for daily expenses. The issues raised by the learned counsel for the appellant - Insurance Company can be considered at the time of final hearing of the appeal. Considering this facts, I pass following order :

ORDER

- i. The application is allowed.
 - ii. Applicants are permitted to withdraw 30% amount out of the deposited amount along with accrued interest thereon, subject to filing usual undertaking.
5. Application is disposed off.

(SHIVKUMAR DIGE, J.)