

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 17954 OF 2023****IN****FIRST APPEAL NO. 782 OF 2015**

Alka Rajendra Doifode

... Applicant

In the matter between :

Iffco Tokio General Insurance Company Limited

... Appellant

Versus

Alka Rajendra Doifode and Anr.

... Respondents

.....

Mr. Pritesh K. Bohade, Advocate for the Applicant

Ms. Varsha Chavan, Advocate for Appellant in FA/782/2015

CORAM : SHIVKUMAR DIGE, J.**DATE : 3rd JANUARY, 2024.****P.C. :**

1. Heard learned counsel for the applicant.
2. By this application, applicants are seeking withdrawal of amount.
3. It is the contention of learned counsel for the applicant that deceased was the sole earning member of applicants' family. Applicants were dependent on the income of deceased. Applicants need the amount for daily expenses. Hence, requested to allow the application.
3. Learned Counsel for the Appellant-Insurance Company submits that the application was filed under Section 163-A of Motor Vehicles Act

(for short “M.V.Act”). The Court has passed order under Section 166 of M.V. Act which is not permissible. The rider of motorcycle was the son of respondent No.2 in appeal. There was no compliance of Schedule-II of M.V. Act which is mandatory in nature, 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. Applicants need the amount for their daily expenses. Applicants have no source of income. The grounds raised by the respondents can be considered at the time of final hearing of the appeal. Hence, Considering this fact, I pass following order :

ORDER

- (i) The application is allowed.
 - (ii) The applicants are permitted to withdraw the 25% amount out of deposited amount along with accrued interest thereon on furnishing usual undertaking.
5. The application is disposed off.

(SHIVKUMAR DIGE, J.)