

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.7263 OF 2024
IN
FIRST APPEAL NO. 156 OF 2024

Mintodevi Phoolchandra and ors.		Applicants
In the matter of		
The New India Assurance Co. Ltd., Mumbai.	...	Appellant
versus		
Mintodevi Phoolchandra and ors.		Respondents

Mr. T. R. Kale i/b. Mr. Deepak S. Kilaje, Advocate for the Applicants/Claimants.

Mr. Rajesh Kanojia i/b. Res Juris, Advocate for the Appellant.

CORAM : SHIVKUMAR DIGE, J.

DATE : 5th APRIL, 2024.

P.C. :

1. Heard learned counsel for the applicants and learned counsel for appellant-Insurance Company.

2. Learned counsel for the applicants submitted that the deceased was the sole earning member of the applicants' family. The applicants have no source of income, they need the amount for their daily expenses. Hence, requested to allow the application.

3. Learned counsel for appellant - Insurance Company strongly objected to allow the application on the ground that, at the time of accident, the driver of the offending vehicle was not holding effective and

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valid driving license and, this fact is proved before the Tribunal, in spite of that, the Tribunal has awarded compensation against the appellant–Insurance Company, which is erroneous. Hence, requested to reject the application.

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

ORDER

1. The application is allowed.
2. The applicants are permitted to withdraw 40% amount along with accrued interest therein, out of the deposited amount, on furnishing usual undertaking.

The application is disposed of.

(SHIVKUMAR DIGE, J.)