

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

**INTERIM APPLICATION NO. 8172 OF 2024
IN
FIRST APPEAL NO. 368 OF 2024**

Mrs. Rashila Sitaram Gimbhal & Ors.Applicants

In the matter between

HDFC ERGO General Insurance Co. Ltd.Appellant

Versus

Mrs. Rashila Sitaram Gimbhal & Ors.Respondents

Ms. Neha Deshmukh i/b Mr. Shirshak Chavanke, Advocate for the
Applicants/Respondents.

Ms. Sweta Shah a/w Gaurav Sahane, Advocate for the
Appellant/Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 30th APRIL, 2024.

P.C. :

1. By this application, Applicants are seeking withdrawal of the amount.
2. It is contention of learned counsel for the Applicants that deceased was the sole earning member of Applicants' family. Applicants have no source of income. They needs the amount for their

daily expenses. Hence, requested to allow the Application.

3. Learned counsel for the Appellant/Insurance Company submits that deceased was riding the motorcycle along with four pillion rider and accident occurred due to sole negligence of the deceased but this fact is not considered by the Tribunal. Hence, requested to reject the Application.

4. I have heard both learned counsel.

5. Deceased was the sole earning member of Applicants' family. Applicants have no source of income. They needs the amount for daily expenses. The issue raised by the learned counsel for the Appellant/Insurance Company can be considered at the time of final hearing of the Appeal and, I pass following order;

ORDER

- i. Application is allowed.
 - ii. The Applicants are permitted to withdraw the 30% amount out of deposited amount along with accrued interest thereon, on furnishing undertaking.
- . The Application, stands disposed of.

(SHIVKUMAR DIGE, J.)