

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

**INTERIM APPLICATION NO. 8173 OF 2024
IN
FIRST APPEAL NO. 366 OF 2024**

Rashila Sitaram GimbhalApplicant

IN THE MATTER BETWEEN

HDFC ERGO General Insurance Co. Ltd.Appellant

Versus

Rashila Sitaram Gimbhal & Anr.Respondents

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

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

CORAM : SHIVKUMAR DIGE, J.

DATE : 30th APRIL, 2024.

P.C. :

1. By this application, Applicant is seeking withdrawal of the amount.

2. It is contention of learned counsel for the Applicant that deceased was the sole earning member of Applicant's family. Applicant needs the amount for daily expenses. They have no source

of income. Hence, requested to allow the Application.

3. Learned counsel for the Appellant/Insurance Company submits that deceased was travelling as a pillion rider on motorcycle. Four person were travelling as pillion rider on motorcycle which was illegal, there was contributory negligence of the deceased in the said accident. Hence, requested to reject the Application. The rider of the offending truck was not holding effective and valid driving licence.

4. I have heard both learned counsel.

5. Applicant needs the amount for his daily expenses. They have no source of income. The issue raised by 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 Applicant is 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.)