

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

**INTERIM APPLICATION NO. 420 OF 2024
IN
FIRST APPEAL NO. 652 OF 2023**

Mamta Pawan Gola & Ors

....Applicants

In the matter between

The New India Insurance Co. Ltd.

....Appellant

Versus

Mamta Pawan Gola. & Ors.

....Respondents

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Mr. Aditya V. Kode i/b Mr. Avadhut Bidaye, Advocate for the Applicants.

Ms. Karishma Jhaveri i/b Mr. Navdeep Vora Associate, Advocate for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th JANUARY, 2024.

P.C. :

1. 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 need the amount for daily expenses. Hence, requested to allow the Application.

2. Learned counsel for the Respondent/Insurance Company strongly objected to allow the Application, on the ground that there was contributory negligence of the deceased in the said accident but, this fact is not considered by the Tribunal as well as income of deceased is considered on higher side. Hence, requested to reject the Application.

3. I have heard both learned counsel. Deceased was the sole earning member of Applicants' family. Applicants have no source of income. They need the amount for daily expenses. The issue raised by the learned counsel for the Respondent/Insurance Company can be considered at the time of final hearing of the appeal.

4. In view of above, I pass following order.

ORDER

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

5. Application is disposed of.

(SHIVKUMAR DIGE, J.)