

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 337 OF 2024****IN****FIRST APPEAL STAMP NO. 3730 OF 2021**

Kalpana Devidas Thakre and Ors.

... Applicants

IN THE MATTER OF :

HDFC Ergo General Insurance Co. Ltd.

... Appellant

Versus

Kalpana Devidas Thakre and Ors.

... Respondents

Mr. Sachin Bhavar i/b. Mr. Anilkumar Patil, Advocate for Applicants.

Mr. A.P. Kulkarni, Advocate for Appellant.

CORAM : SHIVKUMAR DIGE, J.**DATE : 4th APRIL, 2024.****P.C. :**

1. Heard learned counsel for the applicants.
2. By this application, applicants are seeking withdrawal of amount. It is contention of learned counsel for the applicants that deceased was the sole earning member of the applicants' family. Applicants were dependent on the income of deceased. Applicants have no source of income, they need the amount for 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 the cheque which was issued

as a premium of Insurance policy was dishonored. The policy was canceled before the date of accident but this fact is not considered by the Tribunal. Hence, requested to reject the application.

4. I have heard both the learned Counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Nashik (for short “the Tribunal”). 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 appellant-Insurance Company 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 50% amount out of deposited amount along with accrued interest thereon on furnishing usual undertaking.

5. The Interim Application is disposed off.

(SHIVKUMAR DIGE, J.)

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