

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.8911 OF 2024
WITH
FIRST APPEAL NO.188 OF 2021**

Future Generali India Insurance Co.Ltd. through its ... Appellant
Manager

versus

Niti Nilesh Dhule and ors. Respondents

**And
FIRST APPEAL NOS.774 AND 775 OF 2024
with
FIRST APPEAL NO. 846 OF 2022**

Prakash Sahadeo Dhule and anr. ... Appellants

versus

Keshav Nabaji Khude and ors. Respondents

Mr. Rajesh Kanojia i/b. Res Juris, Advocates for the Appellant in First Appeal No.188 of 2021.

Mr. Hemant Ghadigaonkar, Advocate for the Appellant in First Appeal Nos.846 of 2022 and First Appeal No.775 of 2024 and for Respondent No.1 to 4 in First Appeal Nos.188 and 846 of 2021

Ms. Karishma Jhaveri i/b. Navdeep Vora and Associates, Advocates for Respondent No.7.

Mr. Ganesh Bhujbal i/b. Mr. Baburao D. Shinde, Advocate for Respondent No.4 in First Appeal No.774 of 2024.

CORAM : ARUN R. PEDNEKER, J.

DATE : 12th JUNE, 2024.

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P.C. :

1. First Appeal No.188 of 2021 is filed by the insurance company,

in which, the amount qua the deceased claimant has been deposited by the insurance company.

2. Learned counsel appearing for the insurance company submits that he has filed an appeal against the claim made by the dependents of deceased driver only. Learned counsel further submits that the dependents of driver of Toyota Etios cannot claim any compensation, as such, the dependents are not entitled to compensation. However, the Tribunal, in paragraph 10 of the impugned judgment, has held that there is 50% negligence of opponent No.1 and 50% negligence of the deceased – Nilesh Dhule and the Tribunal has awarded 50% compensation to the dependents of the deceased – Nilesh Dhule.

3. Since the Tribunal has already held against the insurance company, I deem it appropriate to permit the applicant/claimant to withdraw 50% of the amount deposited by the insurance company subject to filing of undertaking to the satisfaction of the Presiding Officer of the Tribunal where the amount is deposited. Interim Application No.8911 of 2023 is allowed and disposed of.

4. First Appeal Nos. 188/2021, 846/2022, 774/2024 and 775/2024 stand admitted.

5. The parties are at liberty to file paper book in the Registry within two weeks.

(ARUN R. PEDNEKER, J.)