

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.7701 OF 2024
IN
FIRST APPEAL (ST) NO.28501 OF 2017

Smt.Nilam Jaywant Gangwane & Ors. Applicants
V/s.

Iffco Tokio General Insurance Co. Ltd & Respondents
Anr.

Mr.Pritesh K. Bohade, for the Applicants.

Mr.Rajesh Kanojia i/b Res Juris, for the Respondent and for the
Appellant in First Appeal.

CORAM : ARUN R. PEDNEKER, J.

DATE : 13th JUNE 2024

P.C:-

. Heard learned counsel for the Applicant.

2. The Appeal is filed by the Insurance Company primarily on the ground that the insured vehicle is not involved in the accident. The learned counsel submit that the accident took place on 14th May 2011. The FIR was registered on 2nd June 2011 i.e. more than after 16 days of the incident. In this regard, the Tribunal has in paragraph 15 as observed as under:-

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“It is true that although accident occurred on 14/5/2011. F.I.R. is lodged on 2-6-2011 . On perusal of F.I.R. Exh.27 it appears that police head constable Hiranna Vanmare of Sangola Police Station on receipt of MLC papers from Valsangkar Hospital Solapur initially made inquiry and thereafter on being satisfied that there was fault on the part of Tata Ace driver lodged F.I.R. In such circumstances the delay in lodging F.I.R. is not fatal.”

3. The Tribunal has negated the contention and the same is challenged in the present Appeal.

4. Thus the Claimant-wife of the deceased and minor children and the parents would be permitted to withdraw 40% amount in the proportion as directed by the Tribunal alongwith the accrued interest thereon, subject to an undertaking by all the Claimants to the Presiding Officer of the Tribunal, that in the event, the Appeal succeeds that they would re deposit the amount before the Tribunal within a period of six weeks, subject to any further order.

4. The Application for withdrawal is disposed of.

5. Appeal is admitted.

6. On admission Mr.Pritesh K. Bohade, waives notice for the Respondents in First Appeal.

(ARUN R. PEDNEKER, J.)