

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

INTERIM APPLICATION NO.1662 OF 2024

with

FIRST APPEAL NO.1034 OF 2023

Vandana Raju Kokane and ors. ... Applicants

In the matter of

The Oriental Insurance Co.Ltd., Pune ... Appellant

versus

Vandana Raju Kokane and ors. Respondents

Mr. Yuvraj Narvankar, Advocate for the Applicants/Respondent Nos.1 to 4.

Ms. Kalpana Trivedi, Advocate for the Appellant-Insurance Company.

Mr. Shailesh Chavan i/b. Mr. Milind Deshmukh, Advocate for Respondent Nos.6 and 7.

CORAM : ARUN R. PEDNEKER, J.

DATE : 2nd JULY, 2024.

P.C. :

1. Heard the learned counsel appearing for the parties.
2. The learned counsel appearing for the appellant-Insurance Company submits that the trailer was not insured and only the tractor was insured and, as such, he can be saddled with the liability to the extent of damage caused by the tractor to a third party and not by the trailer. However, such an argument was not raised before the Tribunal. It was the contention of the Insurance Company before the Tribunal that the concerned driver of the tractor did not hold a necessary license which has

been specifically negated by the Tribunal holding that the tractor with trailer was driven by a person competent to drive and holding a valid license, as such, I deem it appropriate to allow the application for withdrawal.

3. Applicant No.1 is permitted to withdraw the amount of 70% in proportion of her share along with accrued interest thereon as permitted by the Tribunal subject to an undertaking to the satisfaction of the Presiding Officer of the Motor Accident Claims Tribunal, Kolhapur. As far as the shares of the minors is concerned, the same shall remain deposited in Fixed Deposit. However, in case of any exigency qua the minors, specifically educational requirements, applicant No.1 would be permitted to seek withdrawal even a part of their share as and when such occasion arises. The Interim Application No.1662 of 2024 is allowed and disposed of.

4. The first appeal is admitted.

5. On admission, Mr. Narvankar learned counsel, waives notice for respondent Nos.1 to 4 and Mr. Chavan, learned counsel, waives notice for respondent Nos.6 and 7.

6. Call for record and proceedings.

7. The stay to the impugned order, granted earlier, stands confirmed till the final disposal of the appeal.

(ARUN R. PEDNEKER, J.)