

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

**INTERIM APPLICATION NO. 8468 OF 2024
IN
FIRST APPEAL NO. 536 OF 2024**

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Uttam Anna BankarApplicant

IN THE MATTER BETWEEN

Maharashtra State Road Transport

Corporation Through Divisional

Controller, PuneAppellant

Versus

Uttam Anna Bankar & Anr.Respondents

Mr. Harsha Shrikhande, Advocate for the Applicant/Respondent No.1.

Mr. N. V. Bhutekar, Advocate for the Appellant/Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th MAY, 2024.

P.C. :

1. By this application, Applicant is seeking withdrawal of the amount.

2. It is contention of learned counsel for the Applicant that deceased was the sole earning member of Applicant's family. Applicant has no source of income. Applicant needs the amount for his daily expenses. Hence, requested to allow the Application.

3. Learned counsel for the Appellant/Insurance Company submitted that Tribunal has considered 50% contributory negligence of the S.T. Bus driver which is erroneous. Tribunal should have considered sole negligence of the deceased but this fact is not considered by the Tribunal. Learned counsel further submitted that income of the deceased is considered on higher side without any evidence on record. Hence, requested to reject the Application.

4. I have heard both learned counsel.

5. Deceased was the sole earning member of Applicant's family. Applicant needs the amount for his daily expenses. Applicant has no source of income. The issue raised by learned counsel for the Appellant/Insurance Company can be considered at the time of final hearing of the Appeal and, 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 undertaking.
- . The interim application stands disposed of.

(SHIVKUMAR DIGE, J.)