

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

**INTERIM APPLICATION NO.9782 OF 2024
(withdrawal)**

in

FIRST APPEAL STAMP NO. 25768 OF 2023

Anita Goutam Kamble and ors. Applicants

In the matter of

Maharashtra State Road Transport Corporation ... Appellant
through Divisional Controller, Kolhapur

versus

Anita Goutam Kamble and ors. Respondents

with

**INTERIM APPLICATION NO.15665 OF 2023
(delay)**

and

**INTERIM APPLICATION NO. 15667 OF 2023
(stay)**

WITH

FIRST APPEAL STAMP NO. 25768 OF 2023

Maharashtra State Road Transport Corporation ... Applicant/
through Divisional Controller, Kolhapur Appellant

versus

Anita Goutam Kamble and ors. Respondents

Mr. Nitesh V. Bhutekar, Advocate for the Appellant-Insurance Company.
Mr. Avesh A.Ghadge i/b. Mr. Akshay Kulkarni, Advocate for the
Applicants/Respondent Nos.1 to 3.

CORAM : ARUN R. PEDNEKER, J.

DATE : 2nd JULY, 2024.

P.C. :

1. For the reasons stated in the application, the delay of 38 days

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in filing the appeal is condoned. Interim Application No.15665 of 2023 is allowed and disposed of. The appeal be registered.

2. The present appeal is filed by the appellant-Insurance Company on the ground of quantum and negligence. However, the Tribunal, on consideration of the evidence, more specifically, in paragraphs 15, 16 and 17 of the impugned judgment, has held that the rider was driving his motor-cycle on the left side and was coming from the opposite direction. The road was also straight and without any turn and that there is an offence registered against the bus driver. The Tribunal has held that there is nothing produced on record to indicate that the motor-cycle rider – deceased was negligent. The Tribunal has also relied on the spot panchanama and complaint in the FIR, as such, the prima facie view of the Tribunal is proper. So also on the aspect of quantum, the income of the deceased is taken as Rs.8010/ per month. The deceased was a permanent employee at the Petrol Pump and salary certificate is proved, as such, it cannot be said that the income considered of the deceased was exorbitant.

3. Taking all these factors into consideration, the claimants are permitted to withdraw 70% of the compensation along with accrued interest thereon in the proportion permitted by the Tribunal subject to an undertaking to the satisfaction of the Presiding Officer of the Motor Accident Claims Tribunal, Kolhapur. The Interim Application No.9782 of 2024 is allowed and disposed of.

4. The first appeal is admitted.
5. On admission, Mr. Ghadge learned counsel, waives notice for respondent Nos.1, 2 and 3.
6. Call for record and proceedings.
7. The stay to the impugned order, granted earlier, stands confirmed till the final disposal of the appeal.
8. The Interim Application No.15667 of 2023 stands disposed of.

(ARUN R. PEDNEKER, J.)