

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

**INTERIM APPLICATION NO.10468 OF 2024
WITH
INTERIM APPLICATION NO.10469 OF 2024
IN
FIRST APPEAL (ST) NO.17039 OF 2024**

The Branch Manager, Applicant
The Oriental Insurance Co. Ltd.

V/s.

Jayeshkumar Paragbhai Patel & Ors. Respondents

**WITH
INTERIM APPLICATION NO.13919 OF 2024
IN
FIRST APPEAL (ST) NO.17039 OF 2024**

Jayeshkumar Paragbhai Patel & Ors. Applicants

V/s.

The Oriental Insurance Co. Ltd. & Ors. Respondents

Mr.Sudhakar Pandaram, for the Applicant.

Mr.T.R. Kale i/b Mr.T.J. Mendon, for Respondent Nos.1 and 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 14th NOVEMBER 2024

P.C:-

INTERIM APPLICATION NO.10468 OF 2024

. Heard learned counsel for the Applicant and the
learned counsel for Respondents.

2. Considering the submission of both learned counsel and the reasons mentioned in the Application, the delay of 210 days for filing the Appeal is condoned. The Application is allowed and disposed of.

3. The Appeal be registered.

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4. Heard learned counsel for the Applicant and learned counsel for the Respondents.

5. The learned counsel for the Applicant submitted that, the Applicant has deposited entire award amount along with accrued interest thereon, hence, requested to stay the impugned order.

6. Considering the submissions of the learned counsel as well as reasons mentioned in the Application, the impugned order is stayed till final disposal of the Appeal.

7. The Interim Application is disposed of.

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8. Heard learned counsel for the Applicants.

9. The learned counsel for the Applicants submit that, the deceased was sole earning member of Applicant's family. Applicant is son of the deceased. The Applicants needs the amount for their daily expenses. He has no source of income. Hence, requested to allow the Application.

10. The learned counsel for the Respondent has objected to allow the Application on the ground that, the deceased was not permanent in service. He was on adhoc basis. But the Tribunal has considered monthly income of the deceased on higher side. The learned counsel further submitted that, at the time of the accident the offending vehicle was not holding valid permit. But these facts are not considered by the Tribunal. Hence, requested to dismiss the Application.

11. I have heard both learned counsel.

12. The deceased was only earning member of the family, the Applicant needs the amount for his daily expenses. He has no source of income. The issue raised by the Respondent can be considered at the time of the final hearing. Hence, I pass following order.

ORDER

- (i) The Application is allowed.
- (ii) The Applicants are permitted to withdraw 50% amount along with accrued interest thereon on furnishing undertaking.

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- 13. Call Record and proceedings.
- 14. Leave to file compilation of documents.

(SHIVKUMAR DIGE, J.)