

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.13338 OF 2024
IN
FIRST APPEAL NO.1267 OF 2024
WITH
FIRST APPEAL NO.1267 OF 2024

Shri Prakash Sabaji Kokane ... Applicant

In the matter between :

Reliance General Insurance
Company Limited

... Appellant

vs.

Shri Prakash Sabaji Kokane and anr.

... Respondents

AND
INTERIM APPLICATION NO.11117 OF 2024
IN
FIRST APPEAL NO.1267 OF 2024

Reliance General Insurance
Company Limited

... Appellant/Applicant

vs.

Shri Prakash Sabaji Kokane and anr.

... Respondents

Mr. Akshay K. Kulkarni with Mr. Avesh A. Ghadge, Advocate for the Appellant.

Mr. Yogesh Pande, Advocate for the Respondent No.1 -Claimant.

CORAM : S. M. MODAK, J.
DATE : 10th OCTOBER 2024

P.C. :-

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IN
FIRST APPEAL NO.1267 OF 2024**

1. Heard Mr. Akshay K. Kulkarni, learned Advocate for the Appellant-Insurance Company and Mr. Yogesh Pande, learned Advocate for the Respondent No.1/ Claimant.
2. In the appeal number of factual contentions are raised, first belated FIR, second FIR by the wife of injured who is not an eye witness, next inconsistent pleadings and evidence and last wrong calculation of income and other benefits.
3. According to Mr. Pande all issues can be considered at the time of final arguments. It is true in paragraph No.14 that the Tribunal has discussed about who was driving offending vehicle; whether it was Opponent No.1 or the driver Rajendra Jadhav. I find inconsistent finding. At one stage Tribunal observed that “Therefore, it is doubtful whether witness Rajendra Jadhav examined by the Opponent No.1 was driving vehicle”. In the same paragraph the Tribunal observed “Evidence on record is sufficient to prove that at the time of accident Rajendra Jadhav was the driver.”

4. Be that as it may, involvement of the vehicle is proved. The Claimant was bed-ridden. Attendant was required and it is required in future also. I am inclined to grant 60% of the withdrawal. Hence, the order.

ORDER

- (i) The Respondent No.1-Claimant is permitted to withdraw 60% of the deposited amount alongwith the accrued interest on furnishing an usual undertaking.
- (ii) Compilation be filed before the next date.

5. Accordingly, Interim Application is disposed of.

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- 6. The awarded amount alongwith the accrued interest be deposited.
- 7. Stay is granted to the execution of the award and decree subject to deposit of decretal amount alongwith accrued interest within a period of six weeks from today.
- 8. Accordingly, Interim Application is disposed of.

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9. Stand over to 14th November, 2024.

[S. M. MODAK, J.]