IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 14289 of 2024
in
FIRST APPEAL NO. 539 of 2024

Kanta Mukesh Hadiya and ors. …. Applicants

In the matter of

ICICI Lombard General Insurance Co.Ltd. and anr. …. Appellant

Versus

Kanta Mukesh Hadiya and ors. …. Respondents

Ms. Rina Kundu, Advocate for the Applicants/Claimants.
Mr. Devendranath Joshi, Advocate for the Appellant.

CORAM : SHIVKUMAR DIGE, J.

DATE : 22nd NOVEMBER, 2024.

P.C. :

1. Heard learned counsel for the applicants and learned counsel for appellant-Insurance Company.

2. By this application, the applicants are seeking withdrawal of the amount. Learned counsel for the applicants submits that the deceased was the sole earning member of the applicants' family. The applicants have no source of income, they need the amount for their daily expenses. Hence, requested to allow the application.

3. Learned counsel for appellant - Insurance Company strongly objected to allow the application on the ground that two income tax

returns were produced before the learned Tribunal, that too, after the death of the deceased and those were concsidered by learned Tribunal and on that basis compensation is awarded which is erroneous, hence, requested to reject the application.

4. I have heard both learned counsel. The deceased was the sole earning member of the applicants' family. The applicants have no source of income, they need the amount for their daily expenses. The grounds raised by the appellant-Insurance can be considered at the time of final hearing of the appeal. Hence, I pass the following order :

O R D E R

1. The application is allowed.
2. The applicants are permitted to withdraw 40% amount along with accrued interest therein, out of the deposited amount on furnishing usual undertaking.

The application is disposed of.

(SHIVKUMAR DIGE, J.)