IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

FIRST APPEAL (ST) NO. 25976 OF 2022
WITH
INTERIM APPLICATION NO. 19257 OF 2022
WITH
INTERIM APPLICATION NO. 19256 OF 2022
IN
FIRST APPEAL (ST) NO. 25976 OF 2022

The United India Insurance Co. Ltd. .... Appellant/ Applicant

Versus

Anita Anant Shinde and Ors. .... Respondents

WITH
INTERIM APPLICATION NO. 14955 OF 2024
IN
FIRST APPEAL (ST) NO. 25976 OF 2022

Anita Anant Shinde and Ors.
.... Applicants

IN THE MATTER BETWEEN

The United India Insurance Co. Ltd. .... Appellant

Versus

Anita Anant Shinde and Ors. .... Respondents

Mr. Prathamesh Mandlik i/b Mr. Nitesh Bhutekar, for the Appellant.
Mr. T. J. Mendon a/w Mr. T. R. Kale, for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 25th NOVEMBER, 2024.

P.C. :

FIRST APPEAL (ST) NO. 25976 OF 2022

1. Leave to file compilation of documents.

2. Stand over to 16th December, 2024.

INTERIM APPLICATION NO. 19257 OF 2022

1. Heard learned counsel for the Applicant.

2. Learned counsel for the Applicant submits that Applicant has deposited entire award amount along with accrued interest thereon.

3. Considering the submissions of the learned counsel for the Applicant and reasons mentioned in the application, the impugned order is stayed till final disposal of the appeal. Application is disposed of.

INTERIM APPLICATION NO. 19256 OF 2022

1. Heard learned counsel for the Applicant.

2. Considering the submissions of the learned counsel for the Applicant and the reasons mentioned in the Application, the delay of

92 days for filing the Appeal is condoned. The Application is allowed and disposed of.

3. The Appeal be registered.

INTERIM APPLICATION NO. 14955 OF 2024

1. By this application, Applicants are seeking withdrawal of the amount.

2. Learned counsel for the Applicants submits that the deceased was the sole earning member of Applicants' family. Applicants have no source of income. They need the amount for their daily expenses. Hence, requested to allow the application.

3. Learned counsel for the Respondent strongly objected to allow the application on the ground that the deceased was the pillion rider on motorcycle. The insurance policy was taken only for owner of the motorcycle hence, there was no contractual liability between the deceased and the insurance company but the Tribunal has passed pay and recover order, which is erroneous. Hence, requested to reject the application.

4. I have heard both learned counsel. The deceased was the sole earning member of Applicants' family. They need the amount for their daily expenses. The issue raised by the learned counsel for the

Respondents can be considered at the time of final hearing. Hence, I pass following order:

<u>ORDER</u>

i. Application is allowed.

ii. The Applicants are permitted to withdraw 30% amount out of deposited amount along with accrued interest thereon, on furnishing undertaking.

5. The interim application stands disposed of.

(SHIVKUMAR DIGE, J.)