**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 14983 of 2024**
**in**
**FIRST APPEAL STAMP NO. 14205 of 2017**

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| Gulnaz Habib Kurwale | … Applicant |
| In the matter of | |
| United India Insurance Co. Ltd. | …. Appellant |
| versus | |
| Gulnaz Habib Kurwale and ors. | …. Respondents |

**with**
**INTERIM APPLICATION NO. 13790 of 2024**
**in**
**FIRST APPEAL STAMP NO. 14205 of 2017**

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| Rihana Nurmohammad Kurwale and ors. | … Applicants |
| In the matter of | |
| United India Insurance Co. Ltd. | …. Appellant |
| versus | |
| Gulnaz Habib Kurwale and ors. | …. Respondents |

Mr. Apurva Mahadik i/b. Mr. Veerdhaval Kakade, Advocate for Applicant in IA/14983/2024 and Respondent No.1 in FA.
Ms. Prachi Khandge i/b. M/s. M. P. Vashi and Associates, Advocate for Applicants in IA/13790 and for Respondent Nos. 3 to 6 in FA.
Mr. Rahul Mehta i/b. KMC Legal Venture, Advocates for the Appellant-Insurance Company.

**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 28th NOVEMBER, 2024.**

**P.C. :**



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

2. By these applications, the original claimants/applicants are seeking withdrawal of the amount. As applicants in both the applications were original claimants before the Tribunal and they have been awarded compensation by one and same judgment, I am deciding these two applications by common order.

3. It is contention of learned counsel for the applicants that deceased was the sole earning member of the applicants' family. The applicants are wife and parents of the deceased. The applicants have no source of income, they need the amount for their daily expenses, hence, requested to allow the application.

4. Learned counsel for appellant - Insurance Company strongly objected to allow the application on the ground that the insurance policy of the offending vehicle produced on record was fake and it was orphan claim but this fact is not considered by the Tribunal and the Tribunal has passed erroneous order. Hence, requested to reject the applications.

4. I have heard all 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 applications are allowed.

2. The applicants are permitted to withdraw 35% amount as per their share fixed by the Tribunal along with accrued interest therein, out of the deposited amount on furnishing usual undertaking.

The applications are disposed of.

**(SHIVKUMAR DIGE, J.)**