

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

43 CIVIL APPLICATION NO. 11079 OF 2024
IN FA/2508/2024
WITH
CIVIL APPLICATION NO. 1048 OF 2025
IN FA/2508/2024

CHOLAMANDALAM M S GENERAL INSURANCE CO LTD
VERSUS
MAHANANDA SIDDHESHWAR YESLOTE AND OTHERS

...
Advocate for Applicant : Mr. Abhijit Choudhari
...

CORAM : S. G. CHAPALGAONKAR, J.

Dated : 30.01.2025

PER COURT :-

ORDER ON STAY APPLICATION :

1. Heard learned Advocates appearing for respective parties.
2. Mr. Chaudhari, learned Advocate appearing for applicant submits that entire amount as per award has been already deposited. His statement is supported by office

endorsement. Hence, application is allowed in terms of prayer Clause (B) and is disposed off.

ORDER ON WITHDRAWAL APPLICATION :

3. Heard Mr. Dargad learned Advocate appearing for applicant and Mr. Chaudhari learned Advocate appearing for respondent/Insurance Company.

4. Applicants are Original Claimants in MACP No. 201 of 2020. They filed a claim seeking compensation towards death of Siddheshwar Baliram Yeslote, who died in a motor vehicular accident on 22.01.2020. Claim was contested by Insurance Company on ground of false implication of the vehicle as there is inordinate delay in lodging FIR. The Tribunal relied upon evidence of two witnesses namely Vishnu and Santosh and accepted case of Claimants and passed award for an amount of Rs. 17,90,600/- in favoaur of Claimants alongwith interest @ 7% p.a.

5. Mr. Chaudhari, learned Advocate appearing for respondent Insurance Company invited attention of this Court

to factual aspect of the matter and submitted that though accident took place on 22.01.2020, FIR is lodged after more than 50 days of the accident.

6. Mr. Dargad, learned Advocate appearing for Claimants submits that deceased was taken at higher Center for treatment at Aurangabad. He died on 25.01.2020, thereafter information was given to police on 11.02.2020. Spot panchanama was drawn. Statement of witnesses were recorded. Consequently offence was registered.

7. Prima-facie it appears that PW-2 who is Security Guard at Sugar Factory near the place of incident, is a natural witness. Therefore, although there is delay in lodging FIR, finding recorded by the learned Tribunal appears to have based on appreciation of evidence. In that view of the matter, Claimants are certainly entitled to withdraw partial amount as deposited by the insurance Company. Hence following order :

ORDER

- (i) The Civil Application partly allowed.

(ii) Claimants are permitted to withdraw 50% of compensation amount deposited by respondent/Insurance Company, along with accrued interest there on, on furnishing usual undertaking to the satisfaction of learned Registrar, (Judicial) of this Court.

(iii) Rest of the amount be kept in Fixed Deposit, in any Nationalized Bank, to be renewed from time to time, till disposal of appeal.

(iv) The Civil Application stands disposed of.

(S. G. CHAPALGAONKAR)
JUDGE