



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

**CIVIL APPLICATION NO. 795 OF 2025
IN FAST/25978/2024**

Ranjana Santosh Hingmire And Ors

VERSUS

Shyam Ramdas Mankar And Ors

...

Mr. Syed Moisali Amjedali, Advocate for Applicants

Mr. A. S. Usmanpurkar, Advocate for Respondent no.3

...

WITH

CIVIL APPLICATION NO. 11452 OF 2024 IN FAST/25978/2024

WITH

CIVIL APPLICATION NO. 8853 OF 2025 IN FAST/25978/2024

.....

CORAM : AJIT B. KADETHANKAR.

DATED : 20TH SEPTEMBER, 2025

ORDER :-

CIVIL APPLICATION NO. 795 OF 2025 IN FAST/25978/2024

. Feeling aggrieved by the judgment and award dated 16.04.2024, passed by the learned Member, Motor Accident Claims Tribunal, Aurangabad in M.A.C.P. No.552 of 2023, the Insurance Company has filed this First Appeal.

2. While securing stay to the execution and operation of the impugned judgment and award, the Insurance Company/appellant has deposited entire payable award amount in this Court.

3. Now, this Civil Application is filed by the claimants seeking withdrawal of the entire award amount deposited by the Insurance Company.

4. Mr. Syed Moisali Amjedali, learned Advocate for the claimants submits that after adjudication of the rights and liabilities of the parties, the learned Tribunal has passed the judgment and award impugned in the First Appeal. He would further submit that the entitlement of the claimants has been upheld by the learned Tribunal in the terms and in the tune recorded in the judgment and award impugned in the First Appeal. He, therefore seeks permission to withdraw the entire award amount deposited by the Insurance Company.

5. Per contra, while opposing the application vehemently, Mr. A. S. Usmanpurkar, learned Advocate for appellant/Insurance Company points out that the appeal is filed on legal grounds. He submits that the driver of the insured vehicle was not at all possessing the valid and effective driving license while commission of the accident. He would further submit that this being vital fault on the part of the insured, the Insurance Company is not obliged to

indemnify the owner or compensate the claimants. With this, Mr. A. S. Usmanpurkar, learned Advocate for the appellant prays to reject the application.

6. Upon having heard the parties at length, I find that defence of the Insurance Company has been adjudicated by the learned Tribunal giving some reasonings, although those are highly disputed by the appellant in the First Appeal. Today, the award stands in favour of the claimants. The amount deposited by the appellant/Insurance Company is pending in the bank and it is in nobody's interest that such amount remains idle in the bank.

7. That, Mr. Usmanpurkar, learned Advocate for the appellant/Insurance Company has raised debatable ground to demonstrate that the insurer was not obliged to indemnify the insured owner.

8. The merit of appeal can be heard at the time of final hearing of the appeal. So far as present application is concern, I deem it appropriate to pass following order:

ORDER

- a. Civil Application is partly allowed.
- b. The claimants/applicants are permitted to withdraw 50 percent of the awarded amount by furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.
- c. Rest of the amount be deposited in fixed deposit in any nationalized bank.
- d. Civil Application is disposed of in above terms.

CIVIL APPLICATION NO. 11452 OF 2024 IN FAST/25978/2024 (STAY)

. In view of the order passed in Civil Application No.795 of 2025, this Civil Application stands allowed in terms of prayer clause 'B'.

2. Stay granted earlier made absolute.
3. Civil Application stands disposed of.

CIVIL APPLICATION NO. 8853 OF 2025 IN FAST/25978/2024

. This Civil Application is filed seeking substituted service under Order V, Rule 20 of the Civil Procedure Code for effecting service on the unserved respondent by way of publishing notice in newspaper.

2. For the reasons stated in the Civil Application, Civil Application stands allowed in terms of prayer clause 'B'.
3. Registry to issue notice to the respondent no.6 by publishing the same in Daily newspaper namely, 'Punya Nagari', circulated in Aurangabad district edition.
4. Applicant to incur the expenses.
5. Civil Application stands disposed of in above terms.

(AJIT B. KADETHANKAR, J.)