



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

**CIVIL APPLICATION NO. 1360 OF 2025
IN FA/1290/2024**

**ALKABAI SANTARAM JADHAV AND ORS
VERSUS
GOKUL TULSHIRAM TIWADE AND ORS**

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Mr. A. R. Kawade, Advocate for Applicants

Mr. Aute Avinash Jagtap and Mr. Sachin Kunte, Advocate for
Respondent No.2

Mr. A. B. Kadethankar, Advocate for Respondent No.3

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : 07th FEBRUARY, 2025

PER COURT :-

1. Heard, Mr. Kawade, learned Advocate appearing for the applicants.
2. Applicants are original claimants in MACP No.797 of 2018. They instituted claim under Section 166 of the Motor Vehicles Act for compensation towards accidental death of Santaram Eknath Jadhav. They were dependent on income of deceased.
3. The Tribunal upon assessment of evidence, recorded finding that accident occurred due to fault on the part of

driver of the insured vehicle and passed an award of Rs. 13,55,000/- alongwith interest at the rate of 8% per annum.

4. Respondent/insurer filed present appeal, thereby carrying forward their defence on the point of driving licence, so also, the negligence.

5. Having considered submissions advanced and the reasons as stated in the impugned order, apparently, there is no dispute that deceased lost his life in motor vehicular accident involving an earthmover. The issue whether the driver had valid license or not would be a question between the insurer and owner of the vehicle, entitlement of the claimants cannot be denied on this ground. Therefore, the claimants are certainly entitle to withdraw the amount of compensation as deposited by insurer.

6. In that view of the matter, the following order is passed.

ORDER

- a) Application is partly allowed.
- b) Applicants are permitted to withdraw 70% of compensation amount as deposited by the respondent/insurer, subject to furnishing of usual undertaking to the satisfaction

of Registrar (Judicial) of this Court.

c) Civil Application stands disposed of.

(S. G. CHAPALGAONKAR, J.)

Rushikesh/2025