



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

960 CIVIL APPLICATION NO. 2464 OF 2025
IN FA/2794/2024

SMT KALIBAI DINESH MEENA AND ORS
VERSUS
THE INDIA ASSURANCE COMPANY LTD THROUGH ITS
BRANCH DIVISIONAL MANAGER AND ORS

...
Advocate for Applicants : Mr. Bhosle Santosh Chatrapati.
Advocate for Respondent No.1 : Mr. Swapnil S. Rath. ...

CORAM : SHAILESH P. BRAHME, J.
DATE : 26.08.2025

PER COURT :-

1. Heard both sides.
2. Present application is for withdrawal of amount of Rs.97,05,865/- in addition to statutory deposits of Rs.25,000/-.
3. Learned counsel for the applicants submits that accident took place on 03.02.2019 and accident death was reported on 12.02.2019. Offence was also registered against offending vehicle. Statements of the eye witnesses were recorded by the police. It is submitted that the defence of the insurance company and the grounds to oppose present application is after thought. Applicants are dependents and they are entitled to receive the amount. The deceased and the applicants are

resident of Rajasthan and therefore, lodging of FIR was not within their control.

4. Per contra, learned counsel Mr. Rathi would vehemently oppose the application. He would submit that two eye witnesses did not bother to lodge FIR. Report was lodged on 23.02.2019 and on the next day the statements of the witnesses were recorded disclosing offending vehicle. It is submitted that no damage is found to the offending vehicle and the spot panchnama conducted after registration of accidental death shows presence of cycle on which the deceased was moving. It is further submitted that the witnesses were not examined before the Tribunal. Lastly, it is submitted that the driver was prosecuted and he was acquitted. The so called eye witnesses did not support the prosecution. These circumstances are sufficient to cast a doubt regarding the accident and involvement of the insured vehicle.

5. I have considered rival submissions of the parties. I have gone through the impugned judgment. It's a death case. Applicants are dependent upon the deceased. They are from Rajasthan. Incident occurred in Jalna district.

6. At the same time, I find substance in the submissions of the learned counsel for the insurance company. There are overwhelming circumstances to raise a doubt about the involvement of the offending vehicle. It is not possible to permit the applicants to receive the entire amount of compensation. The witnesses who identified the offending vehicle did not support the prosecution which culminated into acquittal *prima facie* vital. However, ends of the justice would be met in permitting the applicants to receive part of the compensation.

7. Civil application is partly allowed permitting the applicants to receive 35 % of the compensation deposited in this Court with accrued interest on furnishing undertaking.

8. The amount shall be disbursed in the same proportion as prescribed in the impugned judgment.

9. Balance amount shall be invested in the nationalize bank.

In First Appeal

10. **Admit.**

11. Learned counsel Mr. Bhosle waives service of notice for respective respondents.

12. Call for Record and Proceedings from the concerned Court if not called.

(SHAILESH P. BRAHME, J.)

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vmk/-