

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

27 CIVIL APPLICATION NO. 1598 OF 2025 IN FA/2791/2024

Mainabai Malji Gavit And Others
VERSUS
Rajendra Baijoram Saroj Pashi And Ors

...
Advocate for Applicant : Mr. Deshpande Shantanu Anil
Advocate for Respondents : Mr. Abhijit Choudhari For R/3

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WITH
CIVIL APPLICATION NO. 12300 OF 2024 IN FA/2791/2024
(stay)

CORAM : S. G. CHAPALGAONKAR, J.

Dated : March 13, 2025

PER COURT :-

1. Heard learned advocates appearing for the respective parties.
2. The applicants/original claimants in MACP No.382 of 2013 filed present application seeking withdrawal of the amount deposited by the insurance company. The claimants are dependents of deceased Malji, who died in motor vehicular accident dated 28.4.2013. Claimants filed the claim seeking compensation under section 166 of the Motor Vehicles Act.
3. The respondent/insurer of offending vehicle contested claim on the ground that insurance policy was not in existence as cheque towards premium was dis-honoured and cover note of policy came to be cancelled. Tribunal, after considering evidence on record concluded that cancellation of the

insurance contract is not duly proved; particularly communication regarding cancellation of the policy was not served upon respondents. With these observations, claim is allowed. Insurer filed appeal carrying forward these defences.

4. Having considered the submissions advanced and reasons as adopted by the Tribunal, claimants are certainly entitled for partial withdrawal of the amount. Hence, the application is allowed. The claimants are permitted to withdraw 70% of the compensation amount as deposited by the insurer with the Tribunal subject to filing of usual undertaking to the satisfaction of the Tribunal that they shall re-deposit the amount, if adverse order is passed in appeal. CA stands disposed of.

CA for stay :-

Mr. Choudhary, learned counsel appearing for the applicants submits that, entire amount as per award is deposited with the Tribunal.

His statement is not disputed by learned counsel appearing for respondents. Hence, application is allowed in terms of prayer clause 'B' and **disposed of**.

First Appeal :-

Call for Record and proceeding.

Post the appeal for admission on 17.4.2025.

(S. G. CHAPALGAONKAR, J.)

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