



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

**CIVIL APPLICATION NO. 3088 OF 2025
IN FAST/28532/2024**

**DEVYANI VASANT PATIL AND ORS
VERSUS
THE UNITED INDIA INSURANCE COMPANY LTD AND ORS**

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Mr. Shrikant Subhash Patil, Advocate for Applicants.

Mr. A. B. Gatne, Advocate for Respondent No.1.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 03rd APRIL, 2025.**

P.C.:-

1. Heard Mr. Patil, learned Advocate appearing for the applicants.
2. The applicants are dependents of deceased, who died in motor vehicular accident. The claim was instituted under Section 166 of the Motor Vehicle Act for compensation against owner and driver of vehicle insured with respondent-Company.
3. Mr. Gatne, learned Advocate appearing for respondent no.1 submits that FIR is lodged after three days of accident. There is nothing on record to show the source of information regarding involvement of insured vehicle. He, therefore, submits that Tribunal could not have accepted case of claimants regarding accident involving insured vehicle.
4. Mr. Patil, learned Advocate appearing for applicants/claimants invites attention of this Court to the observations of Tribunal in paragraph nos.15 to 17. The Tribunal observed that although insurance company has pleaded the case of

non-involvement, nothing is brought on record to suspect involvement. Further relying upon various judgments of Apex Court, Tribunal observed that principle of preponderance of probabilities has to be observed in such cases. The police papers depicts involvement of insured vehicle. *Prima facie*, aforesaid observations goes in favour of claimants.

5. In that view of the matter, without delving into details of ground of Appeal, Civil Application is **allowed**. The claimants are permitted to withdraw 50% of the compensation amount as deposited by respondent/insurer subject to condition that they shall file an undertaking to the satisfaction of Registrar (Judicial) of this Court that they shall redeposit the amount withdrawn, in case adverse order is passed in Appeal.

6. Rest of the amount be kept in Fixed Deposit in any Nationalized Bank.

(S. G. CHAPALGAONKAR)
JUDGE