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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**941 CIVIL APPLICATION NO. 2744 OF 2024
IN FAST/36503/2023**

RAMCHANDRA CHAGAN BHALERAU AND ANOTHER
VERSUS
DNYANESHWAR SHIVAJI SURAYAWANSHI AND OTHERS
WITH
CIVIL APPLICATION NO. 14702 OF 2023
IN FAST/36503/2023

THE BRANCH MANAGER NATIONAL INSURANCE CO.LTD
VERSUS
RAMCHANDRA CHAGAN BHALERAU AND 3 OTHERS
WITH
CIVIL APPLICATION NO. 14703 OF 2023
IN FAST/36503/2023

THE BRANCH MANAGER NATIONAL INSURANCE CO.LTD
VERSUS
RAMCHANDRA CHAGAN BHALERAU AND 3 OTHERS

Mr.P.C.Mayure, Advocate for the applicants.
Mr.A.S.Usmanpurkar, Advocate for respondent No.3.

(CORAM : PRAFULLA S. KHUBALKAR, J.)

DATE : JULY 9, 2025

PER COURT :

CIVIL APPLICATION NO. 2744 OF 2024

1. Heard the learned Advocate Mr.Mayure for the applicant
and the learned Advocate Mr.Usmanpurkar for the Insurance Company.

2. This is an application for withdrawal of the amount of compensation alongwith interest, which is deposited by the Insurance Company in the first appeal, pursuant to orders passed by the Member, Motor Accident Claims Tribunal, Jalgaon in MACP No.161/2014.

3. The learned Advocate for the applicants submits that after considering all the factors, the Tribunal has rightly passed the impugned judgment and order. The deceased was a student of Indian Military Academy with T.E.S. Dapoli and was getting stipend of Rs.21,000/- alongwith separate allowances. He submits that after considering the income of the deceased and future prospects, the Tribunal has rightly awarded the compensation. He also submits that in fact the compensation is calculated only after considering the amount of stipend , however, after completion of one year training, the deceased could have get salary of Rs.58,000/- per month and the claimants are entitled for higher amount of compensation. Be that as it may, he submits that the amount of compensation as calculated by the Tribunal is based on the relevant factors. He submits that during the pendency of the appeal, the applicants who are parents of the deceased,

be allowed to withdraw the amount of compensation.

4. Advocate Mr.Mayure also submits that in a connected appeal, which is filed by the legal representatives of another deceased person in the same accident, bearing FA Stamp No.36007/2023, this Court has passed an order dated 22.07.2024 and permitted the applicants therein to withdraw 50% of the share of the applicants from the amount of compensation deposited on furnishing usual undertaking.

5. Mr.Usmanpurkar, the learned Advocate for Insurance Company opposes the application and submits that the Tribunal has failed to consider the crucial fact that the deceased was a bachelor and in view of the position of Law, the Tribunal ought to have considered deduction of 50% amount for personal expenses. He submits that if the position of Law is taken into consideration, the total claim of compensation as awarded by the Tribunal is on very higher side. In view of this, he submits that during the pendency of the appeal, the withdrawal may not be permitted.

6. He also opposes the application and submits that the issue about non involvement of the vehicle in question, has been raised in the first appeal and considering the issue of non involvement of the vehicle, this Court has permitted withdrawal of only 50% of the amount deposited, by order dated 22.07.2024 passed in connected matter.

7. Considering the overall submissions, following order is passed :-

The applicants are permitted to withdraw 50% of the amount deposited on submitting an undertaking to the Registrar (Judicial) that in case the appeal is decided and the applicants are required to refund the amount, the same will be deposited by them immediately. The balance 50% amount be invested in the Fixed Deposit till disposal of the appeal. **Civil application is allowed and disposed of.**

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8. This is an application for condonation of delay in filing the first appeal by the Insurance Company challenging the judgment and award in MACP No.161/2024. In response to the notice issued on this application, the learned Advocate Mr.Mayure has caused appearance for respondent Nos. 1 and 2.

9. Considering the contentions mentioned in the civil application and submissions advanced, the delay of 116 days in filing the application, is condoned. The first appeal be registered.

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10. The learned Advocate for the appellant submits that in accordance with the order dated 11.12.2023, the appellant has deposited the entire amount of compensation in this Court within the time granted.

11. In view of this, the interim relief granted by order dated 11.12.2023 to operate during the pendency of the appeal.

(PRAFULLA S. KHUBALKAR, J.)