



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

920 CIVIL APPLICATION NO. 4277 OF 2024
IN FA/2917/2023

SUNANDABAI SUNIL JAGTAP AND ORS

VERSUS

NEW INDIA INSURANCE CO. LTD THROUGH SENIOR DIVISIONAL
MANAGER AND ORS

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Advocate for Applicant : Adv. H. R. Lomate h/f. Adv. Salunke Mayur
Vasant

Advocate for Respondent No.1 : Adv. P. P. Mandlik

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CORAM : ROHIT W. JOSHI, J.

DATE : 26th FEBRUARY, 2025

P.C.:

1. Respondent No.1/original claim petitioner has moved the present application for withdrawal of amount deposited by the appellant-Insurance Company in compliance of order granting stay to execution of the impugned judgment and award.

2. The learned Advocate for the applicant/respondent No.1 points out that the deceased was 21 years old on the date of his demise. Applicant/respondent No.1 is the sole class-1 legal heir of the deceased. She contends that the learned Tribunal has computed the amount properly and the appeal is without any substance. Learned Advocate for applicant/respondent No.1 therefore prays that the entire amount should be permitted to be withdrawn.

3. Learned Advocate appearing for the Respondent/Appellant-Insurance Company strongly opposes the application. He brought my attention to the Income Tax Return and points out that the Income Tax Return for the last year which has been taken into consideration by the learned Tribunal is filed after the demise of the deceased and there is phenomenal increase in the income of the deceased as per the last Income Tax Return. Learned Advocate for the appellant-Insurance Company also contends that involvement of the offending vehicle which was insured with the appellant is in doubt in as much as number of offending vehicle is not initially mentioned in the FIR.

4. However, having gone through the judgment delivered by learned Tribunal, I am of the considered opinion that even if we go by the Income Tax Return for the year 2017-18 the respondent No.1 should be permitted to withdraw atleast 50% of the amount deposited with this Court along with accrued interest.

5. The Civil Application is therefore partly allowed.

6. Respondent No.1/Org. claim petitioner is permitted to withdraw 50% of the amount deposited by the appellant with this Court along with accrued interest, subject to furnishing usual undertaking.

[ROHIT W. JOSHI J.]