



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

25 CIVIL APPLICATION NO. 799 OF 2025
IN FA/45/2025
WITH
CIVIL APPLICATION NO. 4488 OF 2024
IN FA/45/2025

SMT ANURADHA EKNATH YEILWAD AND OTHERS
VERSUS
THE BRANCH MANAGER, NEW INDIA ASSURANCE COMPANY
LTD AND ORS

...
Advocate for Applicants : Mr. Sangale Sominath Mahadev
Advocate for Respondent No. 1 : Mr.M. M. Ambhore
...

CORAM : S. G. CHAPALGAONKAR, J.
Dated : 24.01.2025

PER COURT :-

ORDER ON WITHDRAWAL APPLICATION :-

1. Heard learned Advocate appearing for the respective parties.
2. Applicants/Original Claimants seeks withdrawal of amount of compensation deposited by the Insurance Company with the registry of this Court, in pursuance to the award dated 13.12.2023 in MACP No. 166 of 2021. Claimants are dependents on deceased Eknath Yeilwad, who died in a motor vehicular accident on 09.01.2021. The Claimants instituted

claim under Section 166 of the Motor Vehicles Act, for compensation from owner, driver and insurer of the offending truck bearing registration No. MH-16-Q-1945. The claim was contested by the respondent insurance Company refuting contentions raised in the petition, particularly the fact of involvement of insured vehicle. However, except denial of pleading, no further evidence is brought on record. The Tribunal relied upon police papers and accepted case of claimants and finally passed an award of Rs. 33,69,200/- along with interest @ 8% p.a. from the date of filing of the claim petition.

3. Aggrieved, the insurance Company filed present appeal under Section 166 of the Motor Vehicles Act assailing award passed by the Tribunal, mainly on the ground of involvement of the vehicle. Mr. Ambhore, learned Advocate representing representing No. 1 Insurance Company contended that the Claimants have received certain amount under the ESI Scheme and that amount needs to be deducted from the compensation amount.

4. Having considered the submissions advanced, it is

apparent that defence as to the involvement of the vehicle has not been proved by adducing evidence. The Tribunal has rightly relied upon police papers and recorded finding as to the involvement of the insured vehicle in the accident.

5. Prima-facie, entitlement of claimants cannot be disputed at this stage. Therefore, it would be appropriate to permit partial withdrawal of amount by putting certain conditions. In that view of the matter, Claimants are permitted to withdraw 70% of amount deposited by the Insurance Company with accrued interest in proportion to terms given by the Tribunal in order dated 13.12.2023.

6. The amount falling to the share of Minors shall remain in fixed deposits in tune of directions given in Clause -4 of the impugned order by the Tribunal.

7. The 70% amount falling to the share of Claimant Nos. 1, 4 and 5 be disbursed to them on condition that they shall furnish undertakings each to the satisfaction of learned Registrar, (Judicial) of this Court that they shall re-deposit the amount if so directed at the time of final disposal of the appeal.

8. The Civil Application stands disposed of.

ORDER ON STAY APPLICATION :-

9. Heard learned Advocates appearing for the respective parties.

10. Mr. Ambhore, learned Advocate appearing for the Insurance Company submits that entire amount of compensation along with interest, as awarded by the Tribunal, has been deposited with the registry of this Court. His statement is supported by the office endorsement. In that view of the matter, application stands allowed in terms of prayer Clause (B) and is disposed off.

ORDER IN APPEAL :-

11. Heard.

12. **Admit.**

13. Print of paper book is dispensed with.

**(S. G. CHAPALGAONKAR)
JUDGE**