



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

FIRST APPEAL NO. 737 OF 2025

Branch Manager, Bajaj Alliance Gen Insurance Co Ltd

VERSUS

Yogita Gajanan Sapkal And Otehrs

...

Mr. M. R. Deshmukh, Advocate for Appellant

Mr. P. C. Mayure, Advocate for Respondent nos.1 to 5

...

WITH

CIVIL APPLICATION NO. 5246 OF 2025

IN FA/737/2025

.....

CORAM : AJIT B. KADETHANKAR.

DATED : 20TH SEPTEMBER, 2025

ORDER :-

1. Feeling aggrieved by the judgment and award dated 20.03.2024, passed by the learned Member, Motor Accident Claims Tribunal, Aurangabad in M.A.C.P. No.831 of 2021, the original respondent no.3 i.e. insurer has lodged the present First Appeal.

2. While securing stay to the judgment and award impugned in the First Appeal, the appellant has deposited the entire awarded amount together with accrued interest in this Court. Now, present Civil Application is filed by the original claimant seeking withdrawal of the said awarded amount.

3. Mr. P. C. Mayure, learned Advocate for the applicants/claimants submits that in the accident, they have lost their sole breadwinner. Their entitlement has been considered by the learned Tribunal after assessing the facts of the case and evidence that was on record. That, they are in dire need of money and they may be permitted to withdraw the awarded amount to run their livelihood.

4. Per contra, Mr. M. R. Deshmukh, learned Advocate for the appellant/Insurance Company submits that the appeal is based on two grounds, firstly, there was delay of 21 days in lodging the First Information Report of the Accident, which has created serious doubt of involvement of the insured vehicle. Secondly, the assessment carried out by the learned Tribunal is exorbitantly on higher side thereby, the income of the deceased has been held in the absence of any evidence to the tune of Rs.15,000/- per month. With this, Mr. Deshmukh, learned Advocate submits that he has good hope of success in the First Appeal and the applicants may not be permitted to withdraw the amount deposited by the appellant.

5. Having heard both the parties, I am of the considered view that today, the award stands in favour of the

applicants/claimants. Although, there were objections by the insurer as to the involvement of the insured vehicle in the alleged accident and as also to the entitlement of the claimed quantum of the compensation, both the issues have been dealt on its own merits by the learned Tribunal. By keeping both the points open for final debate, the present application can be partly allowed in following terms. Court is also cautious to secure interest of the appellant/Insurance Company, pursuant to the objection raised in the appeal. Hence, following order:

ORDER

- a. Civil Application stands partly allowed.
- b. The claimants/applicants are permitted to withdraw 50 percent of the deposited amount on furnishing usual undertaking and further 25 percent of the deposited amount on furnishing solvent surety/security to the satisfaction of the learned Registrar (Judicial) of this Court.

FIRST APPEAL NO.737 OF 2025

. Mr. M. R. Deshmukh, learned Advocate for the appellant submits that the notice to the respondent nos.6 and 7 be issued.

2. Office to issue notice to respondent nos.6 and 7. Appellant is also permitted to serve the respondent nos.6 and 7 by all permissible modes of private service in addition to regular mode service and to lodge affidavit of service to that effect.

3. The matter be listed after service of notice is complete. In the meantime, applicant/appellant shall take recourse to the provisions enumerated in Chapter II of the Bombay High Court Appellate Side Rules, corresponding to the stage and requirement of matter.

(AJIT B. KADETHANKAR, J.)