



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 CIVIL APPLICATION NO. 984 OF 2025
IN FAST/1148/2025

Magma Hdi General Insurance Co

VERSUS

Dhondiba Nagoba Budge And Ors

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Advocate for Applicant : Mr. S.S. Patil h/f R.H. Dahat

Advocate for Respondents : Mr. Mayure P C.

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WITH

CIVIL APPLICATION NO. 985 OF 2025 IN FAST/1148/2025

WITH

CIVIL APPLICATION NO. 4509 OF 2025 IN FAST/1148/2025

CORAM : S. G. CHAPALGAONKAR, J.

Dated : April 22, 2025

ORDER :-

Delay Application :-

1. The applicant seeks to condone the delay of 84 days caused in filing the application.
2. Perused the application and reasons as stated therein.
3. The delay is occasioned on account of administrative reasons. Contents of the application are not controverted by the respondents.
4. In that view of the matter, application is allowed. Delay of 84 days caused in filing the appeal is condoned. CA stands disposed of.
5. Appeal be registered subject to removal of office objections.

(CA for Stay) :-

6. Mr. Patil h/f Mr. Dahat learned advocate appearing for the applicant submits that entire amount as per the award passed by the Tribunal is deposited in this Court.
7. Said statement is supported by office endorsement.
8. In that view of the matter, application is allowed in terms of prayer clause 'B' and disposed of.

CA for withdrawal of the amount :-

- 1 Heard learned advocates appearing for the respective parties.
2. The applicants are seeking permission to withdraw the amount deposited by the respondent/insurance company in pursuance to the award dated 26.06.2024 passed in MACP No.159 of 2022. The applicants are dependents of deceased, who died in motor vehicular accident dated 7.5.2022, while Akash was traveling in the auto-rickshaw bearing registration no.MH-22/AP-0668 accident took place causing fatal injuries. The claimants instituted MACP No.159 of 2022 raising the the claim for compensation of Rs.32,40,778/- against the owner and insurer of the auto-rickshaw alleging negligence against its driver. The Tribunal, after evaluation of the evidence on record passed award directing the respondents to pay compensation of Rs.24,87,778/- to the claimants.
3. Aggrieved insurer filed present appeal on the ground that the insured auto-rickshaw has been falsely implicated. Quantification of compensation is excessive and exorbitant. Mr. Patil points out that accident occurred on 7.5.2022, FIR is registered on 15.5.2022 and in between there is no material to

show that insured vehicle was involved in the accident. It is true that there is some delay in lodging the FIR, however, delay itself cannot be a ground to discard claim for compensation. Tribunal observed that in fact, case of non-involvement of the insured vehicle was not put up to claimant's witnesses. Therefore, merely because there is delay, claim cannot be discarded. In view of the aforesaid observations, award is passed.

4. Considering submissions advanced by learned advocates appearing for respective parties and reasons as adopted by the Tribunal, prima facie, claimants have established case for grant of partial withdrawal of the compensation amount subject to certain conditions. Hence, order.

O R D E R

- i. Civil application is partly **allowed**.
- ii. The applicants are permitted to withdraw 50% of the compensation amount deposited by the appellant/insurer on furnishing an undertaking to the satisfaction of the Registrar Judicial of this Court that they shall redeposit the amount in case adverse order is passed in appeal.

Balance of the amount be kept in fixed deposit till further orders.

- iii. CA stands disposed of.

(S. G. CHAPALGAONKAR, J.)

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