



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

914 CIVIL APPLICATION NO. 5413 OF 2025
IN FAST/27144/2024

ASHWINI RAJENDRA GADAKH AND ORS
VERSUS
THE BRANCH MANAGER CHOLAMANDALAM M S GENERAL
INSURANCE CO LTD AND ORS

...
Mr. Kawade Arvind Ramnath, Advocate for Applicants
Mr. Abhijit Choudhari, Advocate for Respondent No.1

....

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 07.05.2025

PER COURT :-

. Heard learned Advocates appearing for respective parties.

2. The Applicants are the original claimants in MACP No.41 of 2018 filed by them seeking compensation towards accidental death of bread earner of family, Rajendra BabaPatil Gadakh, who died in motor vehicular accident dated 07.01.2018. It is contention of claimants that the deceased was riding on motor cycle at that time the insured Mahindra car bearing registration No. MH-17-AE-0799 gave dash to the motor cycle. In result, Rajendra suffered injuries and due to that he died.

3. The claim was contested by the insurer of the car on the ground that there was inordinate delay of eight days in lodging the FIR, as such there is possibility of false implication of insured vehicle. The Tribunal, after evaluation of evidence accepted the case of the claimants that accident occurred due to negligence of car driver so also assessed the income of the deceased to the tune of Rs.20,000/- per month and eventually passed an award of Rs. 31,54,900/- along with interest at the rate of 7% per annum. Aggrieved, insurance company filed this appeal, carrying forward its defence regarding non-involvement of the vehicle as well as the quantum of compensation.

4. A perusal of the reasons adopted by the Tribunal shows that, relying upon the police papers, the Tribunal accepted the claimants' case regarding the involvement of the car. The Tribunal accepted the income of the deceased from the dairy business at the rate of ₹10,000/-, notional income of ₹5,000/- towards management of agricultural land, and ₹5,000/- received by way of honorarium.

5. In that view of the matter, the claimants are certainly entitled for partial withdrawal of the amount. Hence, following order is passed:

::ORDER::

- a. Civil Application is partly allowed.
- b. Applicant Nos. 1, 2, and 4 are permitted to withdraw 50% of the compensation amount, as per their respective shares apportioned by the Tribunal on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court that they shall re-deposit the amount, in case, adverse order is passed in the appeal.
- c. Balance amount be kept in fixed deposit till further orders.
- d. Civil Application stands disposed of.

[S. G. CHAPALGAONKAR, J.]

HRJadhav