

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 4661 OF 2025
IN FA/837/2025

Banshi Vitthal Wagh And Others

VERSUS

New India Assurance Company Limited

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Advocate for Applicants : Mr. Gore Ravindra Vitthal

Advocate for Respondent No.1 : Mr. S.S. Rathi

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : MAY 06, 2025

PER COURT :-

1. Heard learned advocates appearing for respective parties.
2. The applicants seek permission to withdraw the amount deposited by respondent/insurance company in pursuance to award passed by the Tribunal.
3. The applicants filed claim seeking compensation towards accidental death of Sumanbai contending that she was dashed by the insured vehicle. The respondent/insurer disputed the involvement of insured vehicle in accident mainly on the ground that report was lodged belatedly and although accident occurred in presence of claimants/dependents of deceased, no attempt was made to lodge FIR or inform the police. The Tribunal relying upon evidence of investigating officer and claimants, recorded finding that accident involved insured vehicle, so also rash and negligent driving of the same. *Prima facie*, the finding recorded by the Tribunal appears in

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tune with the evidence led by parties. Therefore, claimants can be permitted partial withdrawal of amount subject to certain conditions.

4. In result, following order is passed :

ORDER

- (i) Civil Application is partly allowed.
- (ii) The applicants are permitted to withdraw 50% of compensation amount deposited by respondent/insurer along with accrued interest thereon subject to condition that they file an undertaking to the satisfaction of Registrar (Judicial) of this Court that, in case, adverse order is passed in appeal, they shall re-deposit the amount withdrawn.
- (iii) Undertaking to be filed within eight weeks from today and be made part of appeal compilation.
- (iv) Application stands disposed of.

In First Appeal :

- 5. Issue notice to respondents, returnable on 29.07.2025.
Mr. Gore, learned advocate waives notice for respondent nos.1 to 3.
- 6. Call for record and proceeding.

(S.G. CHAPALGAONKAR, J.)