



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 5294 OF 2025
IN FAST/2892/2025 WITH
CIVIL APPLICATION NO. 1137 OF 2025
IN FAST/2892/2025

Smt. Kamal Kailas Dhumal And Others

VERSUS

The New India Assurance Co. Ltd Through Branch Manager

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Advocate for Applicants : Mr. Gore Ravindra Vitthal

Advocate for Respondent No.1 : Mr. S.R. Bodade

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : MAY 06, 2025

PER COURT :-

In Withdrawal Application :

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 dated 26.08.2024 passed by Motor Accident Claims Tribunal, Jalna in MACP No.167 of 2020.
3. The claim was instituted for compensation towards accidental death of Kailash Shivaji Dhumal. The claimants are dependents on his income. According to claimants, deceased was dealing in cotton and used to sell it to various ginning factories and earning his livelihood. In support of such contention evidence of three witnesses have been recorded stating that deceased has sold

cotton worth Rs.2,14,000/- in a year prior to his death. On the basis of such evidence, the Tribunal drawn inference of his notional earning @ Rs. 17,000/- per month.

4. Mr. Bodade, learned advocate appearing for respondent vehemently submits that on the basis of such evidence, inference of income could not have been drawn. There is no acceptable evidence to prove actual income of deceased.

5. Having considered submissions advanced, apparently dispute in this appeal is as regards to quantum of compensation. Even assuming notional income of deceased at the time of his death, claimants would be entitled to receive compensation amount.

6. In that view of the matter, civil application is partly allowed. The applicants are permitted to withdraw 50% of amount deposited by respondent/insurance company on furnishing usual undertaking to the satisfaction of Registrar (Judicial) of this Court.

7. Undertaking to be filed within eight weeks from today and be made part of compilation of appeal.

8. Civil Application stands disposed of.

In Stay Application :

9. Heard Mr. Bodade, learned advocate appearing for applicant.

10. Learned advocate appearing for applicant submits that entire amount as per award passed under appeal is deposited in this

Court. His statement is supported with office endorsement. In that view of the matter, civil application is allowed in terms of prayer clause (B) and disposed of.

(S.G. CHAPALGAONKAR, J.)