



(This order is corrected as per the speaking to the minutes order dated 18.08.2025)

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

**949 FIRST APPEAL NO. 896 OF 2025**

**THE NEW INDIA ASSURANCE CO LTD THROUGH ITS  
BRANCH MANAGER**

**VERSUS**

**TAHERA BEGUM SHAIKH MOHAMMAD AND OTHERS**

**WITH CIVIL APPLICATION NO. 5256 OF 2025**

**IN FA/896/2025**

**WITH CIVIL APPLICATION NO. 7941 OF 2025**

**IN FA/896/2025**

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Advocate for Appellant : Mr. Manoj Dharmaraj Shinde.

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**CORAM : SHAILESH P. BRAHME, J.**

**DATE : 13.08.2025**

**PER COURT :-**

1. Heard both sides.
2. Applicants are seeking disbursement of amount of Rs.30,00,598/- deposited by the respondent/insurance company. It's a death claim and applicants are in dire need of financial assistance.
3. Application is contested by learned counsel Mr. Shinde on the ground that it's a case of contributory negligence and liability cannot be imposed on the insurance company. The

deceased who was pillion rider was not wearing helmet and the driver of the offending vehicle was not having valid licence. It is further submitted that no adequate evidence is placed on record showing that deceased was having income of Rs.12,000/- per month.

4. I have considered rival submissions of the parties also gone through the relevant observations of the impugned judgment. As it's a death claim and applicants are dependent on the deceased, I am of the considered view that they are entitled to receive part of the amount deposited by the respondent/insurance company. The submission in respect of contributory negligence and adequacy of the evidence can be gone into during final hearing of the matter. Ends of the justice would be met in permitting the applicants to receive 70% of the amount deposited on furnishing undertaking.

5. Civil application is partly allowed by permitting the applicants to receive 70% of the amount with accrued interest by furnishing **undertaking** to the satisfaction of the Registrar (Judicial).

6. Balance amount shall be invested in National Bank.

**First Appeal**

7. **Admit.**
8. Call Record and Proceedings from the concerned Court.

**Civil Application for Stay**

9. As entire amount is deposited, interim relief granted earlier shall stand confirmed.
10. Civil application for stay is disposed of.

**(SHAILESH P. BRAHME, J.)**

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vmk/-