



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

**969 CIVIL APPLICATION NO. 8939 OF 2025
IN FAST/14933/2024**

SAYED YASMEEN AKBAR AND OTHERS

VERSUS

**ICICI GENERAL INSURANCE CO LTD THROUGH ITS
AUTHORIZED SIGNATORY AND ANR**

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Advocate for Applicants : Mr. Dargad Swapnil Sunilkumar.

Advocate for Respondent No.1 : Mr. Mohit R. Deshmukh.

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**WITH CIVIL APPLICATION NO. 5928 OF 2024
IN FAST/14933/2024 WITH
CIVIL APPLICATION NO. 5930 OF 2024
IN FAST/14933/2024**

**ICICI LOMBARD GENERAL INSURANCE CO LTD THROUGH
ITS AUTHORIZED SINGNATORY**

VERSUS

SAYED YASMEEN AKBAR AND OTHERS

...

Advocate for Applicant : Mr. Mohit R. Deshmukh.

Advocate for Respondents : Mr. Dargad Swapnil Sunilkumar.

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**CORAM : SHAILESH P. BRAHME, J.
DATE : 20.08.2025**

PER COURT :-

1. Heard both parties.
2. Applicants seek to withdraw Rs.85,91,055/- deposited by the respondent/insurance company.

3. Learned counsel for the applicants submits that deceased was ex-serviceman and he was pillion rider of the vehicle in question. He met with an accident on 01.09.2021 and died on 08.09.2021. He was having pension as well as income from the private service. Applicants are the dependents and entitled to receive the compensation deposited by the insurance company. It is vehemently submitted that the theory of the insurance company that deceased was in fact riding the motorcycle and not a pillion rider is after thought.

4. Per contra, learned counsel Mr. Deshmukh for the respondent opposes the application on various grounds. It is submitted that medico legal case could have been registered but for eight days no steps were taken. The delay is not only from 01.09.2021 but even thereafter death also. It is submitted that the rider of the motorcycle did not suffer any injury. Neither the driver nor any other person could report the incident in time. My attention is adverted to cross-examination of PW.1 and PW.2, to buttress that witnesses, rider and the claimants were knowing each other which gives rise to false claim.

5. I have considered rival submissions of the parties. I have gone through the written statement of the insurance company. The involvement of the vehicle has not been questioned in the written statement. Whole tenure of the defence would be of the contributory negligence. Although there is delay that would not be a ground to deny compensation to the claimants altogether. It is pointed out by learned counsel for the applicants that owner of the insurance company received claim for damages of the vehicle. Involvement of the vehicle was not been questioned in that claim. The cross-examination of P.W.1 and P.W.2 shows that the witnesses, claimant No.1 and the pillion rider were knowing each other. There is nothing on record to show that the driver sustained any injury which is very surprising. The first information report was also lodged belatedly not from the date of accident even after date of death also. I find substance in the submissions of learned counsel for the insurance company.

6. At the same time, I cannot be oblivious of the fact that the defence which is put forth in High Court was not properly canvassed before the Tribunal. It's a death claim. The contentious issues can be dealt with at the time of hearing of the first appeal. Ends of the justice would be met in permitting

the applicants to receive 25,00,000/- on furnishing undertaking.

7. Civil application for withdrawal of amount is partly allowed permitting the applicants to receive Rs.25,00,000/- on furnishing undertaking to the satisfaction of the Registrar (Judicial) of this Court.

8. Balance amount shall be invested in Nationalized Bank.

Civil Application for Delay

9. For the reasons stated in the application, delay stands condoned.

10. Civil application is allowed.

First Appeal.

11. **Admit.**

12. Learned counsel Mr. Dargad waives service of notice for respondent Nos.1 to 5/claimants.

13. Call for Record and Proceedings from the concerned Court if not called for.

Civil Application for Stay

14. As the entire amount of compensation has been deposited, ad-interim relief granted earlier shall stand confirmed.

15. Civil application is disposed of.

(SHAILESH P. BRAHME, J.)

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vmk/-