



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

64 CIVIL APPLICATION NO. 13934 OF 2024
IN FAST/14963/2024

WITH

CIVIL APPLICATION NO. 5771 OF 2024
IN FAST/14963/2024

WITH

CIVIL APPLICATION NO. 5772 OF 2024
IN FAST/14963/2024

SANJAY SURYAKANT KANSE AND ANR

VERSUS

UNITED INDIA INSURANCE COMPANY LTD, THROUGH ITS
BRANCH MANAGER

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Advocate for Applicants : Mr. Naikwade Shivaji Kondiramji
Advocate for Respondent in CA/13934/2024 : Mr. Swapnil
Rathi

Advocate for Respondent No. 4 in CA/5771/2024 &
CA/5772/2024 : Mr. A.S. Gandhi

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : 30.01.2025

PER COURT :-

ORDER ON WITHDRAWAL APPLICATION :

1. Heard learned Advocates representing for respective parties.
2. By this application, applicants Original Claimants are seeking permission to withdraw amount deposited by

respondent Insurance Company in pursuance to award passed by the MACT, Beed dated 18.10.2023, in MACP No. 238 of 2016.

3. Applicants are dependent and legal representatives of deceased Suryakant, who died in motor vehicular accident dated 14.02.2016.

4. Respondent Insurance Company contested claim mainly on the ground of negligence.

5. Tribunal after evaluation of evidence found that driver of the insured vehicle was responsible for accident and consequently passed award of Rs. 95,49,400/-.

6. Aggrieved, insurer carried its defence in appeal.

7. Mr. Naikwade, learned Advocate representing for applicants submits that the tribunal after considering evidence on record passed award in favour of the Claimants and issue of negligence is decided on the basis of police papers and as such, there are no good grounds in the appeal.

8. Having considered submissions advanced and

grounds of appeal entitlement of claimants for partial withdrawal of amount cannot be disputed. In that view of the matter, following order :

ORDER

- (i) The application is partly allowed.
- (ii) The Claimants are permitted to withdraw 50% of compensation amount deposited by respondent Insurance Company, along with accrued interest thereon, subject to condition that applicants shall file undertakings to the satisfaction of learned Registrar, (Judicial) of this Court that they shall re-deposit amount in case so directed.
- (iii) Rest of the amount be kept in Fixed Deposits, in any Nationalized Bank, to be renewed from time to time till disposal of appeal.
- (iv) The Civil Application stands disposed of in aforesaid terms.

ORDER ON DELAY CONDONATION APPLICATION :

9. Heard learned Advocate Mr. Rathi, appearing for application, Mr. Naikwade and Mr. Gahdhi for respondent Original Claimants.

10. Although other respondents are served, they have not caused their appearance. Having considered the reasons as stated in the application, apparently it seems delay caused is on account administrative reasons. Applicant has not derived any advantage by making delay. In that view of the matter, application deserves to be allowed and it is allowed accordingly. Delay of 127 days caused in filing appeal is hereby condoned. Appeal be registered subject to removal of office objections.

ORDER ON STAY APPLICATION :

11. Mr.Rathi, learned Advocate appearing for applicant submits that entire amount of award is deposited with registry of this Court. His statement is supported by office endorsement. In that view of the matter, application stands allowed in terms of prayer Clause (B) and is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

mahajansb/