2025:BHC-AUG:27160

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 CIVIL APPLICATION NO. 6565 OF 2025
IN FA/2665/2024

JAKIYA NASER SHEKH AND OTHERS
VERSUS
SYED JAVED SYED SALEEM
...
Mr. Syed Moisali Amjedali, Advocate for Applicant
Mr. M. R. Deshmukh, Advocate for Respondent No.3.
...

CORAM : AJIT B. KADETHANKAR, J.
DATE : 26.09.2025

PER COURT :-

1. Being aggrieved and dissatisfied by the judgment and award dated 08.07.2024, passed by learned Hon'ble Member, Motor Accident Claim Tribunal, Aurangabad, in M.A.C.P. No.743 of 2022, original respondent no.3/Insurance Company has lodged the present appeal.

2. Pursuant to the stay granted by this Court to the execution and operation of the impugned judgment and award, the Insurance Company has deposited entire payable award amount in this Court together with accrued interest thereon. Mr. Syed, learned counsel for the applicants has filed this civil application seeking permission to withdraw the deposited amount.

3. Mr. Syed, learned counsel for the Applicants, submits that the

entitlement of the Applicants has already been assessed by the learned Tribunal at the time of trial, and therefore, the Applicants should be permitted to withdraw the deposited amount. He further submits that they have lost their sole breadwinner and are suffering grave hardships in maintaining their livelihood.

4. Per contra, Mr. Deshmukh, learned counsel for the Insurance Company, opposes the application, contending that the appeal is maintainable on strong merits. He submits that firstly, that there is a delay of one month and nine days in lodging the First Information Report. He further submits that, after the alleged incident, both the owner and driver of the insured vehicle absented themselves from the trial despite having been duly served. He contends that this raises a serious inference of false involvement of the insured vehicle in the accident. He also argues that, in the absence of any evidence on record, the learned Tribunal was unjustified in fixing a notional income for the deceased at Rs. 15,000 per month. Considering all these aspects, Mr. Deshmukh submits that allowing this civil application would cause serious prejudice to the interest of the Insurance Company, and hence the application ought to be rejected.

5. Having heard the parties at length, I observe that indeed there was a delay of 30 days in lodging the First Information Report, and that the

driver and owner of the insured vehicle did not appear during the trial despite service of notice. The Insurance Company raises a legitimate issue of false involvement of the insured vehicle. However, the learned Tribunal, upon appreciation of the evidence and consideration of the facts, has passed the impugned judgment and award in favour of the Applicants. The amount deposited by the Insurance Company is lying idle in the bank, and it is in nobody's interest that such funds remain pending.

6. In view of this, I pass the following order :-

ORDER

a. Civil Application is partly allowed.

b. Applicants are permitted to withdraw 50% of the deposited amount by furnishing usual undertaking and further 25% amount by furnishing solvent surety/security to the satisfaction of the learned Registrar (Judicial) of this Court.

c. Remaining amount, if any, be kept in fixed deposit.

d. Civil Application stands disposed of.

FIRST APPEAL NO.2665 OF 2024

1. Stand over to 14.11.2025.

2. Call Record and Proceeding.

[AJIT B. KADETHANKAR, J.]

PRW