



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

105 FIRST APPEAL NO. 176 OF 2025

Reliance General Insurance Co Ltd

VERSUS

Smt.bharti Jitendra Chaudhari

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Advocate for Appellant : Mr. S.S. Patil h/f R.H. Dahat

Advocate for Respondents 1-6 : Mr. Shah Mohit S.

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WITH

CIVIL APPLICATION NO. 7673 OF 2024 IN FA/1194/2024

WITH

CIVIL APPLICATION NO. 6874 OF 2024 IN FA/1193/2024

WITH

CIVIL APPLICATION NO. 8648 OF 2024 IN FA/176/2025

WITH

FIRST APPEAL NO. 1193 OF 2024

WITH

CIVIL APPLICATION NO. 14596 OF 2022 IN FA/176/2025

WITH

FIRST APPEAL NO. 1194 OF 2024

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : April 09, 2025

ORDER :-

CIVIL APPLICATION NO. 14596 OF 2022 IN FA/176/2025

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1. Mr. Patil, learned advocate appearing for the applicant submits that in this matter, entire amount as per the award passed by the Tribunal is deposited. His statement is supported by office endorsement. In that view of the matter, the application is allowed in terms of prayer clause 'B' and disposed of.

Applications for Withdrawal of the amount :-

2. Heard learned advocates appearing for the respective parties.

3. The applicants are seeking permission to withdraw the compensation amount deposited by the respondent/insurer in pursuance to the award dated 8.6.2022 passed by the Motor Accident Claims Tribunal, Dhule in MACP No.422 of 2013.

4. The applicants are original claimants. They instituted claim for compensation on account of death of Jitendra Chaudhary, who was bread earner of the family. While he was traveling in Bolero Car, one Huyndai accent car bearing registration No.MH-04/AX-2879 came from opposite direction and gave dash to the jeep. In result, deceased suffered fatal injuries. Office was registered against Car driver. Even, the claimants lodged claim seeking compensation against owner and insurer of the car. Insurer contested the claim raising defence that they had never insured car and documents showing insurance cover are fabricated one.

5. Tribunal partly accepted their defence and ultimately passed the award in the nature of pay and recover. Aggrieved insurer filed present appeal carrying forward it's defence. Perusal of reasoning adopted by the Tribunal and documents at Exhibit 38 and 40 prima facie gives impression that car was insured by respondent-insurance company. The Tribunal, after evaluation of the evidence recorded finding about existence of insurance. However, doubting passing of consideration in the order, passed award in the nature of pay and recover. Be that,

as it may, entitlement of the claimants to receive the compensation cannot be denied. In that view of the matter, following order is passed.

O r d e r

- i. The application is partly allowed.
- ii. The claimants are permitted to withdraw 50% of the compensation amount as deposited by the Respondent/Insurer on furnishing usual undertaking to the satisfaction of the Registrar Judicial of this Court that they shall re-deposit the amount, in case, adverse order is passed in appeal.
- iii. It is made clear that since respondent/owner of the vehicle has not filed any appeal assailing the award, insurer shall be at liberty to proceed with recovery of the amount from him in pursuance to the award of the Tribunal.
- iv. Civil applications for withdrawal of the amount stand disposed off.

First Appeal No.176/2025 :-

Mr. Patil learned advocate appearing for the appellant, undertakes to take steps against unserved respondent no.7 within a period of two weeks from today. Stand over after six weeks.

First Appeal No.1193 of 2024 :-

Admit. Print and paper book dispensed with. Learned counsel waives notice, on admission.

(S. G. CHAPALGAONKAR, J.)

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