



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

952 CIVIL APPLICATION NO. 10597 OF 2025
IN FAST/19300/2025

SUREKHA REKHA VACHISTA SHENDGE AND ORS

VERSUS

THE BRANCH MANAGER NATIONAL INSURANCE CO LTD AND ORS

...

Mr. Shrimant Mundhe, Advocate for Applicants

Mr. A. S. Umanpurkar, Advocate for Respondent No.1

...

WITH

CIVIL APPLICATION NO. 7097 OF 2025
IN FAST/19300/2025

THE BRANCH MANAGER, NATIONAL INSURANCE CO LTD

VERSUS

SUREKHA @ REKHA VACHISTA SHENDGE AND ORS

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CORAM : AJIT B. KADETHANKAR, J.

DATE : 26.09.2025

PER COURT :-

CIVIL APPLICATION NO. 10597 OF 2025 IN FAST/19300/2025 (Withdrawal)

1. Feeling aggrieved and dissatisfied by the judgment and award dated 15.02.2025, passed by the learned Member, Motor Accident Claims Tribunal, Majalgaon, in Motor Accident Claims Petition No.16 of 2012, original respondent no.2 has lodged the present appeal under Section 173 of

of the Motor Vehicle Act, 1988. Pursuant to the stay granted by this Court, the appellant/Insurance Company has deposited entire award amount in this Court together with accrued interest thereon. On this backdrop, this civil application is moved by the applicants seeking permission to withdraw the deposited amount.

2. Mr. Mundhe, learned counsel for the applicants submits that the applicants have proved their entitlement to the granted compensation in the trial. The learned Tribunal has appreciated the facts in the case and the evidence on record and then only passed the impugned judgment and award. In view of this, he prays to allow the application.

3. Per contra, Mr. Usmanpurkar, learned counsel for the appellant/Insurance Company, submits that the claim was filed in 2012 but has been decided only in February 2025; thus, he contends that the trial was unduly delayed at the behest of the claimants. He further contends that the accident involved a collision between two vehicles: one, a bike on which the deceased was riding as a pillion and the other, a luxury bus insured with the appellant. He points out that in the claim petitions arising from the death of the pillion rider, the Tribunal apportioned liability, 70% to the bike owner/driver and 30% to the insured bus/insurer. He contends that although negligence was found in the instant matter, the Tribunal wrongly imposed the entire liability and compensation burden on the insured bus and appellant. He

further argues that the notional income was fixed at Rs. 13,000/- though the accident was in 2011, which he asserts is excessive. For these reasons, he opposes the withdrawal application.

4. During the course of the hearing, Mr. Mundhe brought to my attention that original claimant No. 4, namely Kantabai Ramrao Shendge, died on 28.08.2017. He further referred to an order dated 19.06.2025 in Civil Application No. 6235 of 2025 (First Appeal No. 1501 of 2025), in which this Court noted the death of Kantabai and held that Applicants Nos. 1 to 3 are her only legal representatives.

5. In view thereof, the appellant shall amend the title clause of :
(i) the First Appeal, (ii) the civil application for stay, and (iii) the civil application for condonation of delay to reflect the substitution of parties. The amendment shall be carried out within two weeks from today.

6. Having heard the parties I find that as of today, the award stands in favor of the applicants. The learned Tribunal appears to have applied its mind and appreciated the evidence before passing the impugned judgment and award. The fact that liability was apportioned in a related matter (30% on the bus/insurer) cannot be ignored, and the appeal must be examined on merits at the final hearing. In that backdrop, I deem it appropriate to pass the following order:

ORDER

- a. Civil Application is partly allowed.
 - b. Applicant nos.1 to 3 are permitted to withdraw 30% of the deposited amount by furnishing usual undertaking and further 20% of the deposited amount by furnishing solvent surety/security to the satisfaction of the learned Registrar (Judicial) of this Court. This withdrawal shall include the share of applicant no.4 to be apportioned equally amongst applicant nos.1 to 3.
 - c. The remaining amount shall be deposited in a fixed deposit in a nationalized bank.
 - d. Civil Application stands disposed of.
7. It is clarified that share of applicant No. 4 deceased Kantabai in the withdrawable amount shall devolve amongst Applicants Nos. 1 to 3 in equal proportion.

CIVIL APPLICATION NO. 7098 OF 2025 IN FAST/19300/2025 (Stay)

1. In view of the fact that the entire award amount is deposited by the appellant/Insurance Company in this Court together with interest, stay granted earlier is made absolute.
2. Civil Application is allowed in terms of prayer clause "B".
3. Civil Application stands disposed of.

[AJIT B. KADETHANKAR, J.]