



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

**80 CIVIL APPLICATION NO. 7440 OF 2024
IN FAST/10459/2024**

Jagruti Pramodrao Deshmukh And Ors

Versus

The New India Assurance Company Ltd Through Its
Branch Manager

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Advocate for Applicant : Mr. Suryawanshi Surendra V.

Advocate for Respondents : Mr. M. R. Deshkmukh

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : February 07, 2025

PER COURT :-

1. Heard learned advocates appearing for the respective parties.

2. The applicants are seeking permission to withdraw the amount deposited by the respondent/Insurance Company in pursuance to the award passed by the Motor Accident Claims Tribunal, Hingoli in MACP No.337 of 2014. The applicants had filed MACP under the provisions of 166 of the Motor Vehicles Act claiming compensation towards accidental death of the deceased Pramod, who died in a motor vehicular accident dated 27.6.2014. At the time of accident, he was riding on his motorcycle. It is alleged that offending motorcycle gave dash to the motorcycle of deceased. In the result, he suffered fatal injuries.

3. Insurance company filed its defence and contested the claim denying involvement of the insured vehicle. Claimant relied upon police papers and oral evidence of the Investigation Officer. On the basis of such evidence, Tribunal accepted case of the claimants and passed an award for Rs.47.00 Lakhs. The appellant/insurer filed present appeal carrying forward its defence of false implication of the insured vehicle.

4. Mr. Deshmukh, learned counsel appearing for the appellant points out that the accident took place on 27.6.2014 however, FIR has been lodged on 2.7.2014; whereas deceased died on 12.8.2014. According to him, insured motorcycle had no corresponding damage. He would therefore, urge that the findings recorded by the Tribunal is erroneous.

5. Considering the submissions advanced, it can be observed that immediately after the accident, deceased was shifted to the hospital. Delay in lodging the FIR itself cannot be a ground to discard the entire claim. The attending circumstances needs to be examined in such case. Tribunal relying upon the police papers, investigation papers and evidence of Investigating Officer concluded about involvement of the vehicle. Prima facie, such findings favours case of the claimants. Therefore, claimants are certainly entitled for partial withdrawal of the amount. Hence, following order.

ORDER

- i. The application is allowed.

- ii. The applicant nos.1, 3 and 4 are permitted to withdraw 50% of the amount of their share 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. The compensation amount falling to the share of the minor partially shall remain in fixed deposit alongwith balance amount till disposal of the appeal.
- iv. CA stands disposed off.

(S. G. CHAPALGAONKAR)
Judge

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