



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

974 CIVIL APPLICATION NO. 2444 OF 2025
IN FAST/6697/2025

THE NEW INDIA ASSURANCE CO LTD THROUGH ITS MANAGER

VERSUS

AJINATH BABAN JADHAV AND ORS

...

Ms. Anagha Rotte, Advocate for Applicant

Mr. S. B. Choudhari, Advocate for Respondent Nos.1 and 2

Mr. Ashok S. Pouse, Advocate for Respondent No.3

...

WITH

CIVIL APPLICATION NO. 2445 OF 2025

IN FAST/6697/2025

THE NEW INDIA ASSURANCE CO LTD THROUGH ITS MANAGER

VERSUS

AJINATH BABAN JADHAV AND ORS

...

Ms. Anagha Rotte, Advocate for Applicant

Mr. S. B. Choudhari, Advocate for Respondent Nos.1 and 2

Mr. Ashok S. Pouse, Advocate for Respondent No.3

...

WITH

CIVIL APPLICATION NO. 8220 OF 2025

IN FAST/6697/2025

AJINATH HOUSRAO PAWAR AND ANR

VERSUS

AMBADAS HOUSRAO PAWAR AND ORS

...

Mr. Sushant Choudhari, Advocate for Applicants

Mr. Ashok S. Pouse, Advocate for Respondent No.1

Ms. Anagha Rotte, Advocate for Respondent No.2

...

CORAM : AJIT B. KADETHANKAR, J.

DATE : 10th SEPTEMBER 2025

PER COURT :-**CIVIL APPLICATION NO. 8220 OF 2025**

1. This Civil Application is filed by the applicants for withdrawal of the amount deposited by the respondent/Insurance Company in this Court pursuant to the judgment and award dated 03.03.2025, passed by the learned Member, Motor Accident claims Tribunal, Beed, in M.A.C.P No.231/2021.

2. Upon hearing the parties, the learned Tribunal arrived at the conclusion that the applicants/claimants are entitled to an amount of Rs. 7,50,000. The respondent/Insurance Company, during the trial, contended that the driver of the vehicle at the time of the accident was not insured with the Insurance Company. Accordingly, the respondent opposed its liability to indemnify the insured owner. The learned Tribunal, while delivering the judgment and award impugned in the First Appeal, accepted that legal defence raised by the Insurance Company. However, the Tribunal directed the Insurance Company first to satisfy the award, and granted them the liberty to recover the same from respondent no.1/the insured owner.

3. Feeling aggrieved and dissatisfied with the judgment and award passed by the learned Tribunal (especially the said directions), the present appeal is filed in this Court. While seeking a stay of the

execution and operation of the judgment and award impugned in the appeal, the Insurance Company has deposited the entire awarded amount in this Court. Through the present Civil Application, the parents of the deceased child (the applicants) pray for permission to withdraw the compensation amount granted by the learned Tribunal.

2. Learned counsel for the applicants placed reliance on judgment rendered by the Honb'le Supreme Court in the case of **Dhondubai vs. Hanmantappa Bandappa Gandigude deceased through Lrs. And others reported in 2023 SCC Online SC 2387**. Paragraph 7 of the judgment which reads as follows :

“7. If the said decision is taken note and the instant facts are taken into consideration, it is noticed that the claimant a lady who was working as a labourer and was travelling in the tractor attached to the trailer, was about 20 years old as on the date of the accident. Due to the injuries suffered in the accident she had also undergone amputation of her left lower limb above the knee joint. Therefore, apart from the disability being 100%, there is prejudice to the marriage prospects and to lead a normal life. In such circumstance, it would not be possible for the claimant to recover the amount from the owner. Therefore, in that circumstance, we direct that the respondent-Insurance Company shall pay the amount awarded by the High Court as compensation with the accrued interest and recover the same from the owner of the vehicle. The amount shall be deposited before the MACT

within six weeks from the date of receipt of a copy of this judgment whereupon the amount shall be disbursed to the claimant.”

2. Per contra, learned counsel for the respondent/Insurance Company submits that those observations are not applicable to the facts of this case. She strongly opposes the prayer in the present Civil Application. Learned counsel further submits that if permission is granted to withdraw the amount now, that will frustrate the wholesome object of filing the First Appeal.

3. Having heard the counsels for both the parties, I am of the considered view that ends of justice would be served by passing the following order :-

ORDER

- a. Civil Application is partly allowed.
- b. Applicants are permitted to withdraw an amount of Rs. 4 Lakh by furnishing usual undertaking to the satisfaction of the learned Registrar (Judicial) of this Court.
- c. Civil Application stands disposed of.

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1. There is delay of 190 days in filing the First Appeal.
2. For the reasons stated in the application, Civil Application is allowed.

3. The delay of 190 days is hereby condoned.
4. Registry to register the First Appeal on condition that the applicant shall remove all office objections within four weeks from today.
5. After registration of the First Appeal, issue notice to the respondents. Mr. Choudhari, learned counsel waives service of notice for respondent nos.1 and 2.
6. Call Record and Proceeding.
7. Parties are put to notice that the appeal shall be heard finally at the stage of admission.

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1. It is submitted that entire payable award amount is deposited in this Court by the applicant/Insurance Company.
2. In view of this, stay granted earlier is made absolute.
3. Civil Application is allowed in terms of prayer clause "B".

[AJIT B. KADETHANKAR, J.]