



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

945 CIVIL APPLICATION NO. 8175 OF 2025
IN FA/1884/2025

POOJA MAHADEO MORE AND OTHERS

VERSUS

MANAGER THE NEW INDIA ASSURANCE COMPANY LTD. AND ANR

...

Mr. Amol Subhash Gandhi, Advocate for Applicants

Mr. S. R, Bodade, Advocate for Respondent No.1

WITH

CIVIL APPLICATION NO. 2026 OF 2025
IN FA/1884/2025

MANAGER THE NEW INDIA ASSURANCE COMPANY LTED

VERSUS

POOJA MAHADEO MORE AND OTHERS

...

CORAM : AJIT B. KADETHANKAR, J.

DATE : 26.09.2025

PER COURT :-

CIVIL APPLICATION NO. 8175 OF 2025 IN FA/1884/2025 (Withdrawal)

1. Feeling aggrieved by the judgment and award dated 09.10.2024, passed by the learned Civil Judge, Senior Division, Beed (Commissioner), in W.C.F.A. No.13 of 2019, the appeal has been filed by the original respondent no.2/Insurance Company.

2. Mr. Bodade, learned counsel for the Insurance Company submits that as a condition precedent to file the appeal in the compensation, Insurance Company has deposited the total award amount in the learned Trial Court and

that thereafter only the present appeal is filed.

3. Mr. Gandhi, learned counsel for the Applicants, submits that the appellant (Insurance Company) has merely deposited the award amount but has not paid the interest thereon. However, from the record, particularly the order dated 7th July 2025 passed by this Court, the issue whether the appellant / Insurance Company is liable to pay interest is kept reserved for the final hearing. Hence, at this stage, the objection cannot be considered. On this backdrop, Mr. Gandhi prays that the application be allowed.

4. Mr. Bodade, learned counsel for the Insurance Company, strongly objects to the application. He submits that the learned Commissioner did not properly consider whether the Applicants succeeded in proving the employer-employee relationship between the deceased and original Respondent No. 1. He further contends that the learned Commissioner erred in fixing the deceased's salary at a higher amount (i.e. Rs. 15,000 per month). Mr. Bodade argues that the Insurance Company has raised substantial questions of law and has a good hopes of success in the First Appeal. if the deposited amount is permitted to be withdrawn, the very purpose of filing the First Appeal would be frustrated.

5. Upon having heard the parties, I find that the learned Commissioner has passed the impugned judgment and award after examining the evidence on record and applying its judicial mind. It is to be noted that the

vehicle owner entered into the witness box to prove the salary of the deceased but stay away from the trial and did not file his written statement to the claim petition. That fact alone may be urged by the appellant in the final hearing of the appeal. Today award stands in favour of the applicants and the amount deposited by the Insurance Company is pending in the learned Trial Court. The question of liability for payment of interest is yet to be decided at the time of final hearing of the appeal. In view of this, I pass the following order :-

ORDER

- a. Civil Application is partly allowed.
- b. Applicants are permitted to withdraw Rs.8 Lakh (Rupees Eight Lakh) on furnishing usual undertaking to the satisfaction of the learned Registrar/Superintendent of the learned Trial Court.
- c. That in the event of reversal of the impugned judgment and award or in the event of any reduction in the liability, the applicants/claimants shall re-deposit such differential amount or the whole amount as the case may be with interest.
- d. Remaining amount be kept at fixed deposit in a nationalized bank. This disposal or withdrawal shall be subject to the final decision in the First Appeal.
- e. Registry to register the First Appeal, subject to removal of office objections, if any, by the applicants within four weeks from today.
- d. Civil Application stands disposed of.

CIVIL APPLICATION NO. 2026 OF 2025 IN FA/1884/2025 (Stay)

1. In view of the fact that the appellant/Insurance Company has

deposited the award amount in the learned Trial Court and since the issue of interest is kept open by this Court to be decided together with appeal and as the substantial portion of the deposited amount has also been permitted to be withdrawn by the applicants, stay granted earlier is made absolute.

2. Civil Application is allowed in terms of prayer clause “B” to the extent of applicant/Insurance Company.

FA/1884/2025

1. Heard.

2. **Admit.**

3. Issue notice to the respondents, returnable on 05.12.2025. Learned counsel Mr. A. S. Gandhi, waives service of notice for respondent nos.1 to 5.

4. Call Record and Proceeding.

5. The matter be listed after service of notice is complete. In the meantime, applicant/appellant shall take recourse to the provisions enumerated in Chapter II of the Bombay High Court Appellate Side Rules, corresponding to the stage and requirement of matter.

[AJIT B. KADETHANKAR, J.]