



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

**960 CIVIL APPLICATION NO. 9601 OF 2025 (For withdrawal of amount)
IN FAST/24486/2023**

Savita Kundalik Rathod And Ors

VERSUS

Ms Cholamandalam M S G I C Ltd Through Its Branch Manager And Ors

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Mr.S.S.Gangakhedkar, Advocate for applicants
Mr.A.S.Usmanpurkar, Advocate for respondent no.1
Mr.M.R.Deshmukh, Advocate for respondent no.3

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WITH

**CIVIL APPLICATION NO. 10027 OF 2023 (for delay)
IN FAST/24486/2023**

WITH

**CIVIL APPLICATION NO. 10028 OF 2023 (for stay)
IN FAST/24486/2023**

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Mr.A.S.Usmanpurkar, Advocate for applicants
Mr.Mohit Deshmukh, Advocate for respondent no.5
Mr.S.S.Gangakhedkar, Advocate for respondent nos.1 to 3

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AND

**961 CIVIL APPLICATION NO. 9602 OF 2025 (for withdrawal of amount)
IN FAST/24491/2023**

Sagarbai Sanjay Rathod And Ors

VERSUS

Ms Cholamandalam M S G I C Ltd Through Its Branch Manager And Ors

Mr.S.S.Gangakhedkar, Advocate for applicants
Mr.A.S.Usmanpurkar, Advocate for respondent no.1
Mr.M.R.Deshmukh, Advocate for respondent no.3

WITH
CIVIL APPLICATION NO. 10029 OF 2023 (for delay)
IN FAST/24491/2023
WITH
CIVIL APPLICATION NO. 10030 OF 2023 (for stay)
IN FAST/24491/2023

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Mr.A.S.Usmanpurkar, Advocate for applicants
Mr.Mohit Deshmukh, Advocate for respondent no.6
Mr.S.S.Gangakhedkar, Advocate for respondent nos.1 to 4

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CORAM : AJIT B. KADETHANKAR, J.
DATE : SEPTEMBER 09, 2025

ORDER :-

Civil Applications For Condonation Of Delay:

Mr.A.S.Usmanpurkar, learned Advocate appearing for the applicant submits that there is delay of 20 days in filing the present First Appeals. To justify the delay, Mr. A.S.Usmanpurkar submits that the delay is neither deliberate nor intentional to protract any legal proceeding or to frustrate any right of either party. He would further submit that only due to the administrative exigency, the delay has occurred, which deserves to be condoned in the interest of justice.

2. Mr.R.P.Cheble h/f Mr.S.S.Gangakhedkar representing the claimants however vehemently opposes the application and submits that the delay is deliberate and not without any administrative exigency as submitted by the appellant.

3. Having considered this, I am of the opinion that the delay of 20 days occurred in filing the present appeal deserves to be condoned in the interest of justice. Hence, I pass following order:

- a. Civil Application stands allowed.
- b. The delay of 20 days occurred in filing First Appeal is hereby condoned.
- c. Registry is directed to register the appeal, subject to removal of office objections, if any.

4. On registration of appeal, notice be issued to the respondents. Mr.M.R.Deshmukh, learned Advocate waives service of notice for respondent no.5 in FAST No.24486/2023 and for respondent no.6 in FAST No.24491/2023. In the meantime, the appellant is permitted to serve the other respondents by all permissible modes of private service and file affidavit of service, if so advised. Stand over to 06.10.2025.

CIVIL APPLICATIONS FOR STAY:-

. Pursuant to the earlier order dated 11.08.2023, passed by this Court, the applicant/Insurance Company has deposited the entire payable award amount in this Court. As such, there is compliance of the order passed in Civil Application that was filed seeking stay to the execution and operation of the impugned judgment and award, the stay granted earlier is made absolute.

2. Civil Applications stand allowed in terms of prayer clause 'B'.
3. Civil Applications stand disposed of.

CIVIL APPLICATIONS FOR WITHDRAWAL OF AMOUNT:-

. This application is filed by the claimants for withdrawal of such portion of the award amount that has been made recoverable from the present appellant. Learned Tribunal has divided the liability of compensation in between the owners and insurers of both the vehicles equally. So far as part of the responsibility of the present appellant is concerned, the present appeal has been filed assailing the liability on two counts, firstly the issue of excess passengers has not been considered by the learned Tribunal and secondly, although the negligence has been apportioned equally in between the two vehicles even the 50 percent apportionment of negligence ought not to have been saddled on the vehicle i.e. insured by the present appellant.

2. With this, Mr.A.S.Usmanpurkar, learned Advocate for respondent no.1 opposed vehemently withdrawal of the amount.

3. I have heard the parties. Presently, award stands in favour of the applicants/claimants. Rights and liabilities of the parties are crystallized by the learned Tribunal after going through the entire evidence. In view of the grounds raised by Mr. A. S. Usmanpurkar to oppose the present application, the applicants/real stake holders must not be suffered of any finding even if the arguments of Mr. A. S. Usmanpurkar are accepted. In the circumstances, I pass the following order:

- a. Civil Applications are allowed.

b. The applicants/claimants are permitted to withdraw the amount with accrued interest so deposited by the appellant/Insurance Company, subject to filing of usual undertaking.

4. The observations made in this order are only to the extent of adjudication of present Civil Applications and the appellant is at liberty to raise every objection on its own merits during the hearing of the First Appeal.

5. Civil Applications stand disposed of.

[AJIT B. KADETHANKAR, J.]

KBP