2025:BHC-AUG:24173

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 9507 OF 2025
IN FA/360/2025

Kalpanabai Vishwap Patil And Ors
VERSUS
Pankaj Vasudeo Mali And Ors
...
Mr. G. S. Rane, Advocate for Applicants
Mr. M. R. Deshmukh, Advocate for Respondent no.3
.....

CORAM : AJIT B. KADETHANKAR.

DATED : 08TH SEPTEMBER, 2025

PER COURT :-

. Feeling aggrieved by the judgment and award dated 12.02.2024, passed by the learned District Judge-2 and Member, Maharashtra Accident Claims Tribunal, Amalner in M.A.C.P. No.57 of 2019, original respondent no.3/insurer has filed the First Appeal. In appeal, the appellant sought stay to the execution and operation of the impugned judgment and award. Execution and operation of the impugned judgment and award was stayed subject to the deposit of entire payable amount by the appellant.

2. The appellant has deposited the entire payable amount in this Court and hence present Civil Application is filed by the

original claimants for withdrawal of the deposited amount.

3. Mr. Girish Rane, learned Advocate representing the applicants/claimants submits that the claim itself was filed as the breadwinner of the family has died and an acute loss of dependency has been fallen on the claimants. Since, they are in dire need of money and as the award stands in their favour, they may be permitted to withdraw the entire award amount deposited by the Insurance Company.

4. Mr. M. R. Deshmukh, learned Advocate representing the appellant/Insurance Company, per contra defends the application contending that there is strong merit in the appeal as occurrence of the accident itself is doubtful. That there would be a debatable case on division of the negligence in between the driver of insured vehicle and the deceased himself.

5. Be that as it may, the award presently stands in favour of the claimants, rights of the parties have been settled by the learned Motor Accident Claims Tribunal upon scrutiny of the evidence and application of judicial mind. The amount deposited by the Insurance Company is lying in the bank and it is in the interest of nobody that the amount so deposited be

pending idle. In such circumstances, I pass the following order:

a. Civil Application is partly allowed.

b. The claimants/applicants are permitted to withdraw 50 percent of the deposit made by the appellant in this Court on usual undertaking.

c. The applicants/claimants are also permitted to withdraw further 25 percent of such deposit made by the appellant/Insurance Company by furnishing solvent surety/security.

6. Needless to mention that the permitted withdrawal is alongwith the interest accrued so far on the deposited amount.

7. Proportion for disbursement of the permitted withdrawal amount shall be the same as is directed in the judgment and award under challenge.

8. Civil Application stands disposed of in above terms.

FIRST APPEAL NO.360 OF 2025

. Issue notice to respondents returnable on 29.09.2025. Mr. G. S. Rane, learned Advocate waives service of notice for respondent nos.1 to 4. Issue notice to respondent nos.5 and 6. In the meantime, learned Advocate for the appellant/Insurance Company may take recourse to permissible modes of private service on those respondents and file affidavit of service to that effect within two weeks from today, if so advised.

2. Call Record and Proceeding.

(AJIT B. KADETHANKAR, J.)

Rushikesh/2025