



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

903 CIVIL APPLICATION NO. 9740 OF 2025
IN FA/2318/2025

Johin Firoj Shaikh

VERSUS

Ayub Nijam Shaikh And Anr.

...

Mr. Baig Mirza Mazhar Javed, Advocate for Applicant

Mr. Shaikh Mazhar Abdulhamid Jahagirdasr, Advocate for
Respondent Nos.1 and 2

....

CORAM : SANJAY A. DESHMUKH, J.

DATE : 20.11.2025

PER COURT :-

1. This is an application seeking stay to the execution of the impugned judgment and award dated 14.08.2025 in MACP No.55 of 2012, passed by the learned Member, Motor Accident Claims Tribunal, Tq. Kopargaon, Dist. Ahmednagar.

2. Heard learned Advocates for both sides.

3. Learned advocate for the applicant relies upon the judgment of this Court in the case of *The Iffco Tokio General Insurance Company Ltd Vs. Smt. Bhagyashri Ganesh Gaikwad and Others* decided on 03.03.2023 in First Appeal No.111 of 2019, wherein paragraph No.10 reads as under:

“10. In respect of, issue of remarriage of Claimant No.1, in my view, it appears from record that at the time of death of her husband, she was 19 years old. Thereafter, she filed a claim petition for getting compensation, during pendency of the claim petition she re-married. One cannot expect that for getting compensation of deceased husband, the widow has to remain widow for life time or till getting compensation. Considering her age, and at the time of accident, she was wife of deceased, is sufficient ground that she is entitled for the compensation. Moreover after death of husband remarriage cannot be a taboo to get a compensation.

Section 166 of Motor Vehicles Act states about who can file Application for Compensation.

“Section 166- Application for Compensation- 1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of Section 165 may be made -

(a) by the person who has sustained the injury; or

(b) by the owner of the property, or

(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or...”

This Section provides that by all or any legal representative of deceased can file application for compensation. The claimant No.1 was wife of deceased at the time of accident being legal representative she filed application for compensation, which is legal.”

4. Learned advocate for the respondents strongly opposed the application.

5. Perused the application. For the reasons stated therein and considering the controversy of the talak nama, it would be proper to

partly allow the application. Hence, the following order:

::ORDER::

- a. Civil Application is partly allowed and disposed of.
- b. Till the final disposal of the appeal, there shall be stay to the execution of the impugned judgment and award to the extent of 25% of the amount awarded by the learned Tribunal, along with accrued interest thereon.
- c. It is clarified that there shall be no impediment to disburse the amount payable to the claimants who are parents of the deceased Firoj.

[SANJAY A. DESHMUKH, J.]

HRJadhav