



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 CIVIL APPLICATION NO. 10798 OF 2025 (Withdrawal)
IN FAST/4996/2016

JULEKHA VAHIDDIN MULANI AND ORS

VERSUS

NATIONAL INSURANCE CO. LTD., THROUGH TH BRANCH MANAGER, AND
OTHERS

...

Mr. Shoyab Shaikh, Advocate for Applicants

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

...

WITH

CIVIL APPLICATION NO. 2467 OF 2016 (Delay)
IN FAST/4996/2016

NATIONAL INSURANCE CO. LTD.

VERSUS

JULEKHA VAHIDDIN MULANI AND ORS

...

CORAM : AJIT B. KADETHANKAR, J.

DATE : 17.10.2025

PER COURT :-

APPLICATION FOR WITHDRAWAL

1. Feeling aggrieved by the judgment and order dated 28.09.2015 passed by the learned Ad Hoc District Judge-1 and Member of Motor Accident Claims Tribunal, Bhoom, in M.A.C.P No.112 of 2014, respondent no.2/Insurance Company has preferred this First Appeal under Section 173 of

the Motor Vehicles Act, 1988.

2. Pursuant to the order passed by this Court staying the execution and operation of the judgment and award impugned, the Insurance Company/appellant has deposited the entire payable award amount in this Court together with interest accrued thereon.

3. Mr. Shoyab Shaikh, learned counsel for the applicants, submitted that vide order dated 30.09.2016, the applicants were permitted to withdraw 40% of the total deposited amount on an undertaking, and the remaining 60% was directed to be invested in Fixed Deposit Receipts in any nationalized bank. He submitted that now, applicant nos.2 to 4 have attained the age of majority, and they now require funds for educational purposes and livelihood. Hence, he prays for permission to withdraw the balance amount.

4. Mr. Bodade, learned counsel for the appellant/Insurance Company, strongly opposed the application, stating that the Tribunal erred in assessing the evidence and failed to consider the role of another vehicle that contributed to the accident. He argued that during the final hearing, the Insurance Company will attempt to demonstrate that the other vehicle was solely responsible for the accident, and therefore, the interest of the appellant should be protected.

5. Mr. Shaikh, learned counsel, again referred to the order dated 30.09.2016. Upon perusal of the impugned judgment and award, it appears that in 2012, the ages of the original claimant nos.2, 3, and 4 were 12, 9, and 7 years respectively. Thus, at the time of the award they were minors. Clause 3(a) of the operative order indicated that their shares were to be kept in fixed deposit until they attained the age of majority.

6. In view of the fact that the claimants have now attained majority and to balance the equities while safeguarding the appellant's interest, the following order is passed:

ORDER

- a. Civil Application is partly allowed.
- b. Applicant nos.2 to 4 are permitted to withdraw 30% of the amount pending in this Court on an undertaking to the satisfaction of the learned Registrar (Judicial) of this Court.
- c. Balance amount be kept in fixed deposit in any nationalized bank.
- c. Civil Application stands disposed of.

APPLICATION FOR DELAY

1. Feeling aggrieved by the judgment and order dated 28.09.2015 passed by the learned Ad Hoc District Judge-1 and Member of Motor Accident Claims Tribunal, Bhoom, in M.A.C.P No.112 of 2014, respondent

no.2/Insurance Company has preferred this First Appeal under Section 173 of the Motor Vehicles Act, 1988.

2. Mr. Bodade, learned counsel for the Insurance Company, submits that there is a delay of 35 days in filing the First Appeal, and a Civil Application for condonation of delay has been filed.

3. Mr. Bodade submits that the delay is neither exorbitant nor deliberate, and occurred due to the time taken in the administrative process of proposing the appeal, obtaining sanction, and securing funds. The delay is explained in paragraphs 8 to 11 of the Civil Application. He also submitted that the entire award amount has already been deposited in this Court by the Insurance Company considering the present litigation is a piece of benevolent legislation.

4. Mr. Shaikh, learned counsel for the claimants, fairly expressed no objection to the condonation of delay.

5. In view of this, I pass the following order :-

ORDER

- a. Civil Application is allowed.
- b. Delay of 35 days caused in filing the First Appeal is hereby condoned.
- c. Registry to register the First Appeal subject to removal of office objections, if any.

FIRST APPEAL STAMP NO.4996 OF 2016

1. Heard.
2. **Admit.**
3. Mr. Shaikh, learned counsel waives service of notice for respondent nos.1 to 4.
4. Call Record and Proceeding.
5. Print and paper book is dispensed with.

[AJIT B. KADETHANKAR, J.]

PRW