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936-CA-10919-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

936 CIVIL APPLICATION NO. 10919 OF 2025  
IN FAST/20113/2025

Kantabai Sambhaji Dahatonde

VERSUS

Cholamandalam Ms General Insurance Company Limited

WITH

CIVIL APPLICATION NO. 7907 OF 2025

IN FAST/20113/2025

WITH

CIVIL APPLICATION NO. 7908 OF 2025

IN FAST/20113/2025

...

Mr. Amol Subhash Gandhi, Advocate for Applicant.

Mr. Abhijit Choudhari, Advocate for Respondent No.1.

CORAM : KISHORE C. SANT, J.

DATE : 3<sup>rd</sup> OCTOBER 2025.

PC :-

1. Heard the learned Advocates for the parties.
  2. This application is filed for condonation of delay of 97 days caused in filing the first appeal by the Insurance Company.
  3. For the reasons stated in the application, delay stands condoned.
- Application is allowed. Office to register first appeal.

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4. With this, civil application stands disposed off.

#### **STAY APPLICATION**

5. Since the appellant insurance company has deposited the entire amount of compensation in the office of this Court as per impugned judgment and award, there shall be stay to the impugned judgment and award till final disposal of the first appeal.

6. With this, civil application stands disposed off.

#### **WITHDRAWAL**

7. Heard the learned Advocates for the parties.

8. This application is filed by original claimants for withdrawal of the amount deposited in the office of this Court by the appellant-Insurance Company. The applicants are widow and sons of the deceased Sambhaji Dahatonde.

9. Application is vehemently opposed by learned Advocate Mr. Choudhari. He mainly submits that the appeal is filed on the ground of contributory negligence. It is the deceased himself who was trying to get on the tractor head by asking for leave, and in that attempt, he met with

accident.

10. Be that as it may, since the earning member of the family is lost, this Court is inclined to allow the application. Hence, the following order:

### **ORDER**

- (i) Application stands allowed.
- (ii) The applicants are permitted to withdraw 50% of the amount deposited in the office of this Court alongwith accrued interest on furnishing usual undertaking.
- (iii) 25% of the amount is allowed to be withdrawn on furnishing solvent surety security to the satisfaction of the learned Registrar (Judicial) of this Court.
- (iv) With this, civil application stands disposed off.

### **FIRST APPEAL**

- 11. Heard.
- 12. Admit.
- 13. Call for record and proceedings.

14. Learned Advocate Mr. Gandhi waives service of notice for Respondent Nos. 1 to 3.

[KISHORE C. SANT, J.]