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923-CA-11506-2025

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

**923 CIVIL APPLICATION NO. 11506 OF 2025
IN FA/2039/2025**

Mira Dhanendra Joshi And Others

VERSUS

The Cholamandalam Ms General Insurance Co Ltd

WITH

**CIVIL APPLICATION NO. 8455 OF 2025
IN FA/2039/2025**

...

Mr. Suhas Rajendra Shirasath, Advocate for Applicant.

Mr. S. S. Rathi, Advocate for Respondent No.1.

CORAM : KISHORE C. SANT, J.

DATE : 15th OCTOBER 2025.

PC :-

1. Heard the learned Advocates for the parties.
2. This application is filed for withdrawal of the amount deposited by the appellant insurance company in the office of this court.
3. The application is vehemently opposed by the learned Advocate Mr. Rathi, appearing for respondent insurance company. He submits that the involvement of the vehicle itself is under question. The accident took

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place on 31st May 2022. However, the FIR was lodged after eight days of the accident by the relative of the deceased himself. Though he was an eye witness, nothing has come on record as to why there is so much delay. He further submits that there was contributory negligence. The court has not considered that aspect. There was head on collision in two motorcycles. The deceased himself was driving one of the motorcycles. About income, he submits that the court has considered income to be Rs.9,65,544/-, whereas in the income tax return, the deceased himself has shown the income to be Rs.7,71,000/-. Thus, the income is taken to be on higher side. He submits that if the amount is withdrawn, it would be difficult to recover the amount in case the appeal is allowed.

4. Considering that the applicant Nos. 2, 3 and 4 are college going students and they require the amount for their education/marriage. This court finds that the application be allowed by allowing them to withdrawn certain amount. There is house property standing in the name of applicant No.1, which can be given as security. Considering above, following order:

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ORDER

- (i) Civil Application is allowed.
- (ii) The amount of 75% alongwith accrued interest be transferred to the Court of learned Member, M.A.C.T., Beed.
- (iii) After transfer, the applicants are permitted to withdraw 50% of the amount with accrued interest of the deposited amount on furnishing usual undertaking.
- (iv) Further 25% of the amount is allowed to be withdrawn alongwith accrued interest on furnishing solvent surety/security to the satisfaction of the learned Member, MACT, Beed.
- (v) Remaining 25% of the amount be kept in fixed deposit till final disposal of the first appeal.
- (vi) The applicant shall file an undertaking that in case the appeal is allowed, the applicant shall re-deposit the amount with interest in the office of this Court within twelve weeks from today.
- (viii) With this, civil application stands disposed off.

STAY APPLICATION

5. Since the entire amount has deposited in the office of this Court alongwith interest, there shall be stay to the impugned judgment and award till final disposal of the appeal.

FIRST APPEAL

6. Heard.

7. Admit.

8. Learned Advocate Mr. Shirsath waives service of notice for respondents-claimants.

[KISHORE C. SANT, J.]