



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

69 CIVIL APPLICATION NO. 14057 OF 2024 IN FAST/12525/2024

Mangala Sadashiv Shete

VERSUS

The New India Assurance Company Ltd And Ors.

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Advocate for Applicant : Mr. N.S. Shah

Advocate for Respondent 1 : Mr. A.B. Kadethankar

...

WITH

CIVIL APPLICATION NO. 5160 OF 2024 IN FAST/12525/2024
(delay)

The New India Assurance Company Ltd

Versus

Mangala Sadashiv Shete

...

Mr. A.B. Kadethankar advocate for applicant.

Advocate for Respondent : Mr. N.S. Shah

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 28, 2025

PER COURT :-

1. Heard learned advocates appearing for the respective parties.
2. The applicant is seeking withdrawal of the amount deposited in pursuance to the award passed by the M.A.C.T. Beed in M.A.C.P no.312 of 1997.
3. The applicant is mother of the deceased, who lost his life in motor vehicular accident involving the insured truck. Insurance company filed present appeal on the ground that deceased himself was responsible for the accident as can be inferred from the police papers.

4. Mr. Kadethankar, learned counsel points out that the offence was registered against the deceased himself, however, Tribunal drawn inference of negligence on the part of the truck without foundation. He submits that assessment of the compensation worked out by the Tribunal is excessive and exorbitant, looking to the fact that accident occurred in the year 1995 and no evidence as to actual earning of the deceased is placed on record.

5. Looking to the grounds of appeal and submissions advanced, there is no dispute about accidental death of deceased involving the insured vehicle. Whether deceased contributed in the cause of accident and whether assessment of compensation made by the Tribunal is in tune with the settled principles of law can be examined at the final hearing of the appeal. At present, the application for delay condonation filed by the Insurance Company is pending for want of service upon respondent. In that view of the matter, provisionally claimants can be permitted to withdraw Rs.10.00 Lakh on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court. Undertaking to be filed within a period of six weeks from today. CA stands **disposed** of.

CA 5160 of 2024 (delay) :-

Re-issue notice to respondent no.3, 2A to 2D, returnable on 25.02.2025.

(S. G. CHAPALGAONKAR, J.)

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