



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

944 CIVIL APPLICATION NO. 179 OF 2025
IN FA/1096/2024

Anjana Ankush Chavan And Ors

VERSUS

Acko General Insurance Co Ltd And Anr

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Advocate for Applicant : Mr. S.S. Dargad

Advocate for Respondent 1 : Mr. S.S. Patil h/f Rohit H Dahat

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 10, 2025

PER COURT :-

1. Heard learned advocates appearing for the respective parties.
2. The applicants/original claimants seeks to withdraw the amount deposited by the appellant/insurer in pursuance of the award dated 31.10.2023 passed in MACP No.125 of 2021. The respondent insurance company has deposited 29,33,000/- with the Registry of this Court in pursuance to the order passed on stay application.
3. Undisputedly, deceased suffered fatal injuries in motor vehicular accident dated 2.3.2021. The applicants were dependents on his income. The Tribunal considered Rs.15,000/- p.m. as income of the deceased and made

assessment of the compensation in tune with the law laid down by the Supreme Court in case of National Insurance Co. Ltd vs Pranay Sethi. The issue raised in this appeal is as regards to the defence of the Insurance company on the point of non-involvement of the insured vehicle. Thrust of the defence is that, FIR was delayed by 8 days. Claimants in support of their contentions relied upon testimony of the eye witnesses and other police papers by which charge-sheet was filed against driver of the offending vehicle. Learned Tribunal accepted claimants case relying upon evidence of the eye witness and concluded that accident occurred due to involvement of the offending vehicle. The aforesaid finding recorded by the Tribunal is assailed in this appeal.

4. At this stage, there is award in favour of the claimants. It would be desirable to grant partial withdrawal to them by putting certain conditions. Further, keeping in mind defence raised in the appeal, quantum of disbursement needs to be considered. In that view of the matter, it would be appropriate to permit the applicants to withdraw Rs.10,00,000/- (Rs. Ten Lakhs) on furnishing undertaking to the Registrar (Judicial) of this Court that, in case, adverse order is passed, they shall re-

deposit the amount withdrawn within a period of three months alongwith interest @ 6% p.a. Claimants are further permitted to withdraw the amount of Rs.5.00 Lakhs on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court in addition to the personal undertaking as stipulated above. Civil application stands partly allowed accordingly and **disposed off.**

(S. G. CHAPALGAONKAR, J.)

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