



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

964 CIVIL APPLICATION NO. 8582 OF 2025
IN FAST/10255/2024

SUNITA SANJAY THUBE AND ORS
VERSUS
M/S SHRI VELLAVAN TRANSPORT AND ANR

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Advocate for the Applicant : Mr.Shaikh Mazhar Abdulhamid
Advocate for Respondent No.2 :Mr.Mohit R.Deshmukh

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CORAM : SHAILESH P. BRAHME, J.
DATE : 12.08.2025

PER COURT :

. Heard both sides.

2. Applicants who are dependents of the deceased are aspiring to receive Rs.41,65,454/-deposited by the Respondent/insurance company. It's a death claim and applicants are in need of amount deposited by the insurance company.

3. Learned counsel Mr.Deshmukh for the insurance company vehemently opposes the application. The defence of the insurance company is that the cheque towards premium was dishonoured and contract was repudiated which was duly communicated on 16.09.2017 to the owner as well as to concerned R.T.O. office. Accident took place thereafter on 24.04.2018. As the intimation of cancellation of contract is prior to the accident, the liability of the

insurance company by taking recourse to 'pay and recover' method is not attracted.

4. I have considered rival submissions of the parties. It is recorded by Learned Judge in paragraph No.30 that the witness examined by the insurance company admitted that company did not have any document to show that notice of cancellation of insurance policy was served upon the owner or concerned R.T.O. department. My attention is adverted to the examination-in-chief of the officer concerned which disclosed that there was acknowledgment and cancellation was intimated on 16.09.2017. It is contended that findings recorded by the tribunal are perverse.

5. I have gone through impugned judgment. Insurance company has preferred appeal challenging the findings recorded by the tribunal which is contrary to the record. Contentious issues are required to be dealt with during the course of trial. At this juncture, I permit the applicants to receive 35% of the amount deposited towards the compensation on furnishing solvent surety/security.

6. Civil application is partly allowed by permitting the applicants to receive 35% of the amount with accrued interest on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court.

[SHAILESH P BRAHME, J.]

vsj..