



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 CIVIL APPLICATION NO. 796 OF 2025
IN FA/238/2025

Sadhana Pradip Patil And Ors

VERSUS

The New India Assurance Company Ltd And Ors

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Advocate for Applicant : Mr. Shrikant Subhash Patil

Advocate for Respondent 1 : Ms. Anangha Rotte

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : February 07, 2025

ORDER:-

1. Heard learned advocates appearing for the respective parties.
2. The applicants/original claimants are seeking permission to withdraw the amount deposited by the respondent/insurance company in pursuance to the award passed by the Motor Accident Claims Tribunal, Dhule in MACP No.706 of 2020.
3. The claimants are dependents of deceased Pradip Patil, who died in the motor vehicular accident dated 17.10.2020. His motorcycle was dashed by the insured Tractor. Offence was registered against the Tractor driver. The claimants are seeking compensation under section 166 of the Motor Vehicles Act against owner and insurer of the Tractor.

4. The insurance company contested claim on the ground of composite negligence so also quantum. The Tribunal, upon appreciation of the evidence, passed an award directing the respondent/insurer to pay compensation of Rs.86,50,599/ alongwith the interest @ 9% p.a. The claimants are seeking permission to withdraw the amount.

5. Learned counsel appearing for the appellant submit that the Tribunal has not considered defence of the appellant. Two defences are raised by the insurance company. Firstly that, as to the composite negligence on the part of the deceased and secondly, quantum of the compensation. The Tribunal has granted excessive interest @ 9% p.a. rate which is not in accordance with interest rates of the Nationalized Banks. According to her, the Award is excessive and exorbitant.

6. Having considered the submissions advanced, it is apparent that accidental death of the deceased is not in dispute. Defence of composite negligence is carried forward in appeal. However, record shows that no evidence in support of such defence is lead by the insurance company. Tribunal relying upon police papers, particularly the fact that offence was registered against driver of the Tractor passed award. So far as grant of interest @ 9% p.a. is concerned that can be considered at the time of final hearing of the appeal. Therefore, at present, the claimants are certainly entitled for partial withdrawal of the amount. In that view of the matter, the claimants are permitted to withdraw 75% of the amount deposited by the Insurance Company on furnishing usual

undertaking to the satisfaction of the Registrar (Judicial) of this Court. Rest of the amount be kept in fixed deposit in any Nationalized bank till disposal of the appeal. Civil application stands **disposed of**.

(S. G. CHAPALGAONKAR, J.)

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