



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

953 FIRST APPEAL NO. 1335 OF 2024

THE NEW INDIA ASSURANCE CO. LTD

VERSUS

SHITAL GURUDAS MAHAJAN AND OTHERS

**WITH CIVIL APPLICATION NO. 5934 OF 2024
IN FA/1335/2024 WITH CIVIL APPLICATION NO. 1240 OF
2025 IN FA/1335/2024**

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Advocate for Appellant : Mr. Rathi Swapnil S.
Advocate for Respondent Nos.1 to 5 : Mr. Shrikant Patil.

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**CORAM : SHAILESH P. BRAHME, J.
DATE : 26.08.2025**

PER COURT :-

1. Heard both sides.
2. Civil Application No.1240 of 2025 is for withdrawal of amount of Rs.82,03,093/- deposited by the respondent/ insurance company in addition to statutory deposits of Rs.25,000/-.
3. Learned counsel for the applicants submits that deceased was a technician and cogent evidence has been brought on record to show the income. Evidence of his wife and eye witness PW.2 is adduced by the applicants. The papers of investigation have also been placed on record. Applicants who

are dependents on the deceased are entitled to receive the deposited amount.

4. Per contra, learned counsel Mr. Rathi vehemently opposes the application. It is submitted that after two days of the accident, First Information Report was lodged mentioning unknown vehicle. In supplementary statement also, the registration number of the vehicle was not mentioned. In the statement of driver of the offending vehicle for the first time, the registration number came to light which creates doubt. It is further submitted that the cross-examination of P.W.2 is incompatible with the theory of the applicants. It is submitted that it's a false case and amount cannot be disbursed to the applicants.

5. I have considered rival submissions of the parties. I have gone through the impugned judgment. There is delay of two days in lodging FIR which does not spell out to registration number. The vehicle has been identified by the driver whose statement is recorded by the police. The papers of investigation are on record. At this juncture, it cannot be said that the applicants cannot be entitled to receive the compensation.

6. Rival issues can be dealt with at the time of final hearing. It reveals from record that the respondent/insurance company did not lead evidence. Neither did it file any complaint to the police regarding false involvement of the vehicle. I am guided by principles laid down by Supreme Court in *Geeta Dubey Vs. United India Insurance Company Ltd.* Considering overall circumstances, ends of the justice would be met in permitting the applicants to receive part of the compensation.

7. Civil application for withdrawal of amount is partly allowed permitting the applicants to receive 60% of the compensation on furnishing undertaking to the satisfaction of the Registrar (Judicial) of this Court.

8. Balance amount shall be invested in Nationalized Bank.

In First Appeal

9. **Admit.**

10. Learned counsel Mr. Patil waives service of notice for respondent Nos.1 to 5.

11. Call for Record and Proceedings from the concerned Court if not called.

12. Print is dispensed with.

Civil Application for Stay

13. As entire amount is deposited, ad-interim relief shall stand confirmed.

14. Civil application is disposed of.

(SHAILESH P. BRAHME, J.)

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vmk/-