



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

11 CIVIL APPLICATION NO. 2567 OF 2025
IN FA/746/2025

Indubai Yashwanta Lavhale And Anr

VERSUS

Divisional Manager The New India Assurance Co Ltd And Ors

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Advocate for Applicant : Mr. Yogeshwar Laxmanrao Bidve

Advocate for Respondent 1 : Mr. M D Shinde

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : April 28, 2025

PER COURT :-

1. Heard learned advocates appearing for the respective parties.

2. The applicants are the original respondent nos.4 and 5 in a claim instituted seeking compensation towards permanent disablement suffered by the original claimant i.e. Yashwant, who died during pendency of the claim. The claim was thereafter continued by his L.Rs. Apart from the claimants, original respondent nos.4 and 5 (present applicants) are also L.Rs. of Yashwanta. Yashwant had suffered 41% permanent disablement, which is certified by Government Medical college and Hospital, Aurangabad. Tribunal assessed compensation as if it is a injury claim and passed award of Rs.7,77,921/- in favour of the claimants and respondent nos.4 and 5 i.e. legal heirs of Yashwant. Present applicants are the original respondent nos.4 and 5 in claim petition. As per operative clause no.3 of the order dated 6.5.2024, passed by the

Tribunal, compensation amount is equally apportioned between the claimants and respondent nos.4 and 5.

3. The Insurer challenged the award passed by the Tribunal mainly on the ground that there was no nexus between death of Yashwant and injuries suffered by him in the accident, however, prima facie, it can be observed that Tribunal considered this claim as injury claim of Yashwant prosecuted by his L.Rs. Accordingly, compensation is assessed for 41% permanent disablement suffered by him. Therefore, the aforesaid contention do not hold field. In the result, prima facie, applicants/original respondent nos.4 and 5 have made out case for grant of withdrawal. In the result, following order is passed.

O R D E R

- i. Civil application is **partly allowed**.
- ii. The applicants/original respondent nos.4 and 5 are permitted to withdraw 60% of the compensation amount alongwith accrued interest as per the apportionment shown in clause no.3 of the impugned order dated 6.5.2024 subject to furnishing of an undertaking to the satisfaction of the Registrar Judicial of this Court that they would redeposit the amount in case adverse order is passed in appeal.
- iii. CA stands disposed of.

First Appeal :-

1. Heard learned advocates appearing for the respective parties.

2. **Admit.** Learned counsel for respondent waives notice on admission.
3. Print and paper book stands dispensed with.

(S. G. CHAPALGAONKAR, J.)

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