



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

**931 CIVIL APPLICATION NO. 4335 OF 2025
IN FAST/32041/2015**

**CHANDRAKALABAI KESHAV MOHITE AND OTHERS
VERSUS
THE NEW INDIA ASSURANCE CO. LTD., THROUGH ITS
MANAGER (LEGAL HUB) AND ORS**

**WITH CIVIL APPLICATION NO. 14415 OF 2015
IN FAST/32041/2015**

**WITH CIVIL APPLICATION NO. 14416 OF 2015 IN
FAST/32041/2015**

...

Advocate for Applicants : Mr. B. G. Parnerkar h/f Mr. Rajaram
B. Muley.

Advocate for Respondent No.1 : Mr. M. M. Ambhore.

...

**CORAM : SHAILESH P. BRAHME, J.
DATE : 02.05.2025**

PER COURT :-

1. Civil Application No.4335 of 2025 is for permission to withdraw 50% of the amount deposited by the respondent/ insurance company.
2. Learned counsel for the applicants submits that amount is needed for the marriage of applicant No.3 Pratiksha. By earlier order dated 07.03.2017 amount of Rs.4,50,000/- was permitted to be received by applicants. Additionally, due to the

supervening events, applicants need the amount. It is contended that there is no source of income.

3. Learned counsel for the insurance company would contest the submissions of the applicants. He would submit that insurance company deposited amount of Rs.10,36,357/- i.e. entire amount with interest. There was breach of condition. The passengers were travelling in goods vehicle which met with an accident. He would submit that respondent has good case on merits. If the amount is disbursed, it would be very difficult to recover the amount.

4. By earlier order dated 07.03.2017 amount of Rs.4,50,000/- was disbursed. Considering the supervening events as stated in the civil application, I deem it appropriate to permit the applicants to receive further amount. It is not possible for this Court to hear the first appeal finally in near future. The need of the applicants cannot be discarded. Hence, I pass the following order :

ORDER

- (i) Civil application is allowed partly.
- (ii) Applicants shall be disbursed the amount of Rs.3,50,000/- further on furnishing solvent surety to the satisfaction of Registrar (Judicial).

In Civil Application No.14415 of 2015

5. This application is for condonation of delay of 103 days in preferring appeal challenging judgment and award dated 21.02.2015 in M.A.C.P No.275 of 2012.

6. Learned counsel for the insurance company Mr. Ambhore submits that for the reasons stated in paragraph Nos.3 to 9, it is desirable to condone the delay. The delay is unintentional and insurance company has good case on merits.

7. Learned counsel appearing for respondents would oppose the application. It is submitted that no proper explanation has been tendered.

8. Considering the averments of the application, I do not find that there is any reason to disbelieve the applicant. The delay of 103 days deserves to be condoned and the matter needs to be heard on merits.

9. Civil application is allowed in terms of prayer clause "B".

10. Office is directed to register first appeal.

In first appeal

11. **Admit.**

12. Learned counsel Mr. Muley waives service of notice for respondent Nos.1 to 7. It is informed that respondent No.6 died and respondent Nos.1 to 5 and 7 are the heirs.

13. The appellant shall make necessary amendment to the memo of appeal.

14. Civil application No.14416 of 2015 for stay, stands disposed of as the entire amount has been deposited by the insurance company.

(SHAILESH P. BRAHME, J.)

...

vmk/-