

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 456 OF 2025
IN
FIRST APPEAL (ST) NO. 13238 OF 2024

Vithal Mahadeo Jangam And Ors. ...Applicants
Versus
United India Ins. Co. Ltd., Mumbai. ...Respondent

Adv. S.R. Gupta, for the Applicant.
Adv. Varsha Charan, for the respondent.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE : 30 JANUARY 2025

P.C.:

1. This interim application is filed praying for the following substantive relief:-

“(a) That this Hon'ble Court be pleased to allow the Applicants/ Ori. Claimants, to withdraw the Lump sum amount of Rs.1,25,00,000/-(Rupees One Crore and Twenty Five Lakh Only) deposited by the Appellant/ Ori. Insurer and/or any other amount as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. The applicants (original claimants) are the family members of the deceased. The applicant no. 2 is the mother, applicant no. 3 is the widow, applicant no. 4 is the sister and applicant no.5 being the daughter of the deceased (then minor). According to the applicants, on 23 October 2018, that Shri. Vaibhav Vithal Jangam (deceased father) met with a road

accident and succumbed to the injuries, and expired. Pursuant to which an FIR was lodged with the concerned police station.

3. We have heard the learned counsel for the parties and, with their assistance, perused the record. This interim application is filed in the First Appeal by the applicants, challenging the impugned judgment and order dated 30 November 2023, passed by the Motor Accident Claims Tribunal, Mumbai (“**MACT**” for short), in application no. 136 of 2019. By the impugned judgment, the insurance company i.e., respondent is directed to pay jointly and severally to the applicants an amount of Rs. 1,95,57,269/- with interest at 7% per annum from the date of the application until realization, to the applicants.

4. Mr. S.R. Gupta, learned counsel for the applicants in support of the interim application for withdrawal of the amount lying with the MACT, would contend that judgment of the MACT was stayed by an order of this court dated 8 May 2024, whereby this court had directed the respondent to deposit a sum of INR Rs.1,25,00,000/- with the MACT within a period of eight weeks from such date, subject to which the execution of the judgment and order of the MACT would remain stayed, until further orders. It is stated that such order is operating as on date. It is that the applicants are in dire need of finances and hence intent withdraw the said amount. It is submitted that the applicants who are senior citizens suffering from old age-related illnesses such as high blood pressure, diabetes, knee

problem, lower back problem, issues of mobility, etc., and have no source of income. It is submitted that the applicants are required to incur regular expenses for their medical treatment.

5. The applicant no. 1 is a retired person having no source of income. The applicant nos. 2 and 3 are housewives, they also do not have any source of income. The applicant no. 4 has recently completed her education and joined a private job, while applicant no.5 is a student. It is submitted that the deceased was the sole bread earner of the family, on whom all the applicants were dependent, for their livelihood. Mr Gupta would further submit that the applicants are engaged in litigation for more than five years. The First Appeal filed in this court is also pending, since. In any event, there is a stay on the execution of the impugned judgment by an order till this court passed the order dated 8 May 2024.

6. Ms. Varsha Chavan, learned Counsel for the respondent insurance-company, would oppose the said interim application. However, there is no reply affidavit in opposition to the interim application which has been placed on record. In our view, in the facts and circumstances in which the present interim application is filed, the following order would meet the ends of justice:-

ORDER

- i) The Registrar of the MACT is directed to permit the applicants to withdraw a sum an amount of Rs.

1,25,00,000/- as deposited by the applicant with the Registry of the MACT within a period of two weeks from the date of this order is made available to the Registrar, MACT.

- ii) The above withdrawal is subject to an undertaking to be furnished by the applicants with the Registrar of MACT that in the event, the respondent/insurance company succeeds in the appeal, the applicants shall bring back such amount as withdrawn along with the interest.
- iii) All rights and contentions of the parties on the appeal are expressly kept open.
- iv) Interim Application stands disposed of in the above terms. No costs.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]