

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 6889 OF 2025
IN
FIRST APPEAL NO. 758 OF 2025

Magma General Insurance Co. Ltd. Applicant

V/s.

Akram Shah Aalam Khan & Ors. Respondents

Mr.Himanshu Jha h/f Ms.Shalini Shankar, for the Applicant.
Mr.Vasant Nanji More, for the Respondents.

CORAM : R.M. JOSHI, J.

DATE : 7th NOVEMBER 2025

P.C:-

. By consent heard.

2. The learned counsel for the Applicant submits that the Applicant/Original Claimants are third party and therefore the Insurer cannot deny the liability of payment of compensation. It is further argued that, there is no specific plea raised before the Tribunal that the vehicle is in question is hazardous vehicle and required special license. It is his submission that the record indicates that, the driver of the vehicle

was holding a valid license.

4. The learned counsel for the Insurer opposed the Application.

5. This is a third party death claim. This Court find *prima facie* substance in the contention of the learned counsel for the Applicant/Original Claimant with regard to the there being no specific plea raised by the Insurer before the Tribunal. In such circumstances, there would be no impediment to allow entire amount to be withdrawn by the Claimants/Applicant.

6. Hence Application stands allowed.

7. The Claimants are permitted to withdraw the entire amount. 50% amount is allowed to be withdrawn on usual undertaking and remaining 50% amount on one solvent surety.

(R.M. JOSHI, J.)