
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 9356 OF 2025
IN
FIRST APPEAL (ST) NO.32341 OF 2024

Kavita Kundan Jadhav & Anr

.. Applicants
(Orig.Claimants)

Versus

Divisional Officer
The New India Assu. Co Ltd & Anr

.. Respondents

IN THE MATTER BETWEEN
Divisional Officer,
The New India Assu.Co Ltd

..Appellant

Versus

KavitaKundan Jadhav & Ors

..Respondents

Mr. Pritesh Bohade, *Advocates for the Applicants.*

Mr. Devendranath Joshi, *Advocates for the Orig. Appellants.*

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**CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.**

DATE: SEPTEMBER 4, 2025

P. C.

1. The above Interim Application is filed to allow the Applicants to withdraw some amount out of the awarded amount deposited by the Respondents before the Motor Accident Claims Tribunal, Nashik (***MACT***).

2. The Applicants are the heirs of one Dr. Kundan Jadhav who lost his life in a car accident. He was a passenger in Mahindra-XUV bearing Registration No.MH-15-EP-0871 which collided with a Container Truck bearing Registration No. MH-46-AF-1104. The Container Truck was insured with the Appellant Insurance Company. The heirs of Dr. Kundan Jadhav (the Applicants herein) preferred a Claim Petition before the MACT, Nashik by filing Motor Accident Claim Petition No.954 of 2015. That Claim Petition was partly allowed and the Appellant-Insurance Company was directed to pay a sum of Rs.99,64,465/- together with interest @ 7.5% p.a. from the date of the Claim Petition till realization of the amount, to the Claimants. Aggrieved by the order passed by the MACT dated 29th December 2023, the above First Appeal is filed. To obtain a stay of the judgment and Award of the MACT dated 29th December 2023, the Appellant-Insurance Company deposited the entire decretal amount together with interest before the MACT, Nashik. It is this amount that the Applicants herein seek to withdraw by the present Interim Application.

3. The learned advocate appearing on behalf of the Appellant-Insurance Company vehemently opposed the grant of any withdrawal. He submitted that in the facts of the present case, it is the Driver of the Mahindra-XUV, Dr. Pratap Shelke, who was responsible for the accident. He

submitted that in fact an FIR has also been lodged by the Police against the said deceased Dr. Pratap Shelke for rash and negligent driving. He further submitted that in fact in the statement of the surviving Dr. Umesh Bhosale, he admitted that it was Dr. Pratap Shelke who was negligent, and which caused accident. Once this is the case, this is not a fit case where the heirs of deceased Dr. Kundan Jadhav ought to be allowed to withdraw any amount whatsoever.

4. We have heard the learned counsel appearing for the parties. We have also perused the papers and proceedings in the above Interim Application. We have also perused the impugned Judgment and Award passed by the MACT. It is true that it was the case of the Insurance Company that they are not liable to pay any amount because the Driver of the Mahindra-XUV was negligent and responsible for causing the accident. However, that story has not found favour with the MACT in the impugned order. We are mindful of the fact that the said order is under challenge before us. However, we are of the view that while the said challenge is pending, the Applicants herein, and who were successful before the MACT ought not to wait for years on end to at least partly enjoy the fruits of the decree passed in their favour.

5. Considering the stand taken by the Insurance Company and the serious opposition to the withdrawal, we are of the view that the justice would be served, if we permit the Applicants to withdraw the 20% of the amount deposited (with accrued interest), on the Applicants furnishing an undertaking to the MACT that in the event the above Appeal succeeds, they shall bring back the amount withdrawn together with interest at such rate as this Court may decide at the final hearing of the Appeal. We are of the view that this will not only balance equities on both sides but would be a just and fair order.

6. We, accordingly, allow the Applicants to withdraw the 20% of the amount deposited (with accrued interest) on the Applicants furnishing an undertaking to the MACT that in the event the above Appeal succeeds, they shall bring back the amount withdrawn together with interest at such rate as this Court may decide at the final hearing of the Appeal.

7. The Interim Application is accordingly disposed of. No order as to costs.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.]

[B. P. COLABAWALLA, J.]