

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

INTERIM APPLICATION NO. 9400 of 2025

in

FIRST APPEAL STAMP NO.26827 OF 2016

Amitadevi Karamchand Patel and ors.

Applicants

In the matter of

Iffco Tokio General Insurance Co.Ltd.

Appellant/s

versus

Amitadevi Karamchand Patel and ors.

Respondent/s

Mr. Amol Gatne i/b. Ms.Swati Mehta, Advocate for the
Applicants/Claimants.

Ms. Varsha Chavan, Advocate for the Appellant.

CORAM : SHIVKUMAR DIGE, J.

DATE : 1st JULY, 2025.

P.C. :

1. Heard learned counsel for the applicants/claimants and learned counsel for appellant-Insurance Company.

2. By this application, the applicants are seeking withdrawal of the amount. Learned counsel for the applicants submitted that the deceased was the sole earning member of the applicants' family. The applicants have no source of income, they need the amount for their daily expenses. Hence, requested to allow the application.

3. It is the contention of learned counsel for appellant - Insurance Company that the deceased was driving in offending vehicle as fare

paying passenger, there was breach of terms and conditions of the insurance policy but this fact is not considered by the Tribunal, hence, requested to reject the application.

4. I have heard both learned counsel. It is the contention of learned counsel for the applicants that the deceased was traveling in the offending vehicle as fare paying passenger. Whereas, it is the contention of learned counsel for appellant-insurance company that there was breach of terms and condition of the insurance policy. The appeal is of the year 2016. Till date, the applicants have not received any compensation amount. The applicants have no source of income, they need the amount for their daily expenses. The grounds raised by the appellant-Insurance can be considered at the time of final hearing of the appeal. Hence, I pass the following order :

ORDER

1. The application is allowed.
2. The applicants are permitted to withdraw 30% amount along with accrued interest thereon out of the deposited amount on furnishing usual undertaking.

The application is disposed of.

(SHIVKUMAR DIGE, J.)