

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CIVIL APPLICATION (F) NO.1650 OF 2024
IN
FIRST APPEAL STAMP NO.8318 of 2024

(HDFC Ergo General Insurance Co. Ltd., thr. its General Manager, Nagpur Vs. Gauri
Rajesh Thombare and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. Amit M. Kukday, Advocate for Appellant/Applicant.
Ms. Mrunal Naik, Advocate for Respondent Nos.1 to 3.
Mr. P. K. Raulkar, Advocate for Respondent No.4.

CORAM: ROHIT W. JOSHI, J.
DATE: 7th FEBRUARY, 2025.

This is an application seeking condonation of delay of 2 days in filing first appeal. For the reasons stated in the application, the delay is condoned.

CIVIL APPLICATION (F) NO.408 OF 2025:

1. The original petitioner nos.1 to 3 who are respondent nos.1 to 3 in the present appeal has filed this application seeking permission to withdraw amount deposited by the appellant – Insurance Company with this Court. The dispute in the appeal pertains to the quantum of compensation as also contributory negligence. The learned counsel for the respondent nos.1 to 3 states that amount is desperately needed for making expenses of education and daily needs of the respondent nos.1 to 3. The learned counsel for the appellant submits that as per the case put up

by the respondent nos.1 to 3, the deceased was an agriculturist and was also doing business of selling milk. He states that the monthly income of the deceased is held to be Rs.45,000/- is on the higher side and also that there is no evidence on record to support the said figure. Apart from that he had also come up with a case of contributory negligence which is not properly appreciated.

2. However, liability of the Insurance Company is not in dispute. In such circumstances, it will be appropriate in the interest of justice that half of the amount deposited by the appellant along with accrued interest is allowed to be withdrawn by the original petitioner – respondent nos.1 to 3 herein.

3. Civil application stands disposed of accordingly.

FIRST APPEAL STAMP NO.8318 of 2024:

1. Heard.

2. **Admit.**

3. Ms. Mrunal Naik, the learned counsel waives service of notice on behalf of respondent nos.1 to 3 and Mr. P. K. Raulkar, the learned counsel waives service of notice on behalf of respondent no.4.

5. Call for records and proceedings.

(ROHIT W. JOSHI, J.)