

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

CIVIL APPLICATION (F) NO.564 OF 2025

IN

FIRST APPEAL NO.163 OF 2025

(Bajaj Allianz General Insurance Co. Ltd., thr. the Branch Manager, Nagpur Vs. Smt. Savita wd/o Ashokrao Kale and others)

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

Court's or Judge's orders.

Ms. Mrunal Naik, Advocate for Appellant/Applicant.
Mr. Vivek Awchat, Advocate for Respondent Nos.1 & 2.

CORAM: ROHIT W. JOSHI, J.

DATE: 18th FEBRUARY, 2025.

1. Heard.

2. The respondent nos.1 and 2, the petitioners in Motor Accident Claim Petition No.178/2016 have filed the present application seeking permission to withdraw the amount of compensation deposited by the appellant with this Court, in compliance of conditional order of stay passed by this Court. The learned counsel for the respondent nos.1 and 2 contends that the deceased was a businessman and also owned vast agricultural land. He states that the income of the deceased was Rs.32,387/- per month which is duly proved by filing income tax return of the deceased on record. He further states that the Chartered Accountant was also examined before the learned Tribunal. He contends that the computation of compensation is just and proper, and therefore, the respondent nos.1 and 2 should be permitted to withdraw the entire amount of compensation deposited and in any case not less than 75% of the compensation

deposited along with accrued interest.

3. Ms. Mrunal Naik, the learned counsel for the appellant opposes the application. She points out that the income tax returns of three financial years have been filed after the demise of the deceased. She further states that apart from the income tax return there is no evidence to establish that the deceased was engaged in business and was earning the income as reflected in the income tax return. She has expressed doubt as regards veracity of the claim of the respondent nos.1 and 2.

4. Be that as it may, it is not in dispute that the deceased had vast agricultural land. It is stated in the evidence that he was personally looking after his agricultural land. In that view of the matter, some notional income will have to be taken into consideration for supervision and due care of the agricultural land. Having regard to the totality of the circumstances, in my considered opinion, ends of justice will be sub-served if the respondent nos.1 and 2 are permitted to withdraw 30% of the amount of compensation deposited by the appellant with this Court along with interest accrued upto date.

5. The civil application is accordingly disposed of by permitting the respondent nos.1 and 2 to withdraw 30% of the amount deposited along with accrued interest on furnishing usual undertaking.

(ROHIT W. JOSHI, J.)