

Rekha Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1857 OF 2025
WITH
INTERIM APPLICATION NO. 11959 OF 2025
WITH
INTERIM APPLICATION NO. 40 OF 2026
IN
FIRST APPEAL NO. 1857 OF 2025

The BEST Undertaking ...Appellant
Versus
Shama Mohd Muntasir Shaikh And Ors. ...Respondents

Ms. Heena Shaikh i/b M. V. Kini, for the Appellant.
Mr. Vasant More, for the Respondent.

CORAM: R. M. JOSHI, J.

DATED: 6th JANUARY 2026

PC:-

INTERIM APPLICATION NO. 40 OF 2026

1. This is an Application for withdrawal of the amount of compensation deposited by the Appellant pursuant to the order of this Court dated 29th September, 2025.
2. Learned Counsel for the Applicant/ original claimant submits that having regard to the evidence laid before the

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Tribunal, there is no merit in the Appeal and hence, entire amount deposited be permitted to be withdrawn.

3. This contention is opposed by the Counsel for the Appellant by contending that the Appellant has filed this Appeal alleging that the deceased was negligent and has contributed to the occurrence of the accident. To support this submission, she placed reliance on the Report of the Officer of the BEST Undertaking. It is further submitted that without any evidence of the income, the Tribunal granted compensation that too more compensation than sought in the Petition.

4. Prima facie perusal of record indicates that the Tempo of the deceased was parked to the corner of the road. Thus, it cannot be said that the deceased has contributed to the occurrence of the accident. The Tribunal has considered notional income for determining the amount of compensation. In such circumstances, there is no justification not to permit the claimants to withdraw entire amount. Hence, the following order.

ORDER

- (a) The Applicants/original claimants are permitted entire amount alongwith the interest. Out of this amount this amount 50% amount be permitted to be withdrawn on usual undertaking and remaining 50% amount on furnishing a solvent surety.
- (b) Application stands disposed of accordingly.

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1. Stand over to 23rd February, 2026.

(R. M. JOSHI, J.)