



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

Civil Application [CAF] No.4728 of 2025

in

First Appeal St. No.27891 of 2025

The Branch Manager, Royal Sundaram General Insurance Co. Ltd.

vs.

Omkar s/o Bhagwantrao Gajbhiye and others

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mrs. Mrunal Naik, Advocate the Applicant/Appellant.

Mr. Asghar Husain, Advocate for Non-Applicant/Respondent Nos.1 to 3.

CORAM : Y.G. KHOBRAGADE, J.

DATE : 5th MAY, 2026.

The learned Counsel appearing for the applicant/appellant seeks time to file an appropriate application for substituted service upon non-applicant No.4.

02. Time, as sought, is granted.

03. Stand over to 15th June, 2026.

Civil Application [CAF] No.1432/2026:

Heard the learned Counsel appearing for applicant/respondent Nos.1 to 3 and the learned Counsel appearing for the appellant /Insurance Company.

02. By the present application, respondent Nos.1 to 3 seek permission to withdraw 75% of the compensation amount awarded under the judgment and award dated 11/08/2025 passed in MACP No.1167/2023 by the learned Member, M.A.C.T.-1, Nagpur.

03. The learned Counsel appearing for the appellant/Insurance Company strongly opposed the application on the ground that though

respondent Nos.1 to 3 failed to produce cogent documentary evidence on record to establish the monthly income of the deceased Aakash, the learned Tribunal has assessed the income of the deceased at Rs.40,000/- per month and awarded compensation of Rs.58,22,000/- along with interest. It is submitted that in the event, the impugned judgment and award is reversed or modified by this Court, it will not be possible to recover the amount from respondent Nos.1 to 3.

04. Needless to say that respondent Nos.1 to 3/original claimants filed Claim Petition No.1167/2023 seeking compensation on account of the accidental death of Aakash Omkar Gajbhiye, son of respondent Nos.1 and 2 and brother of respondent No.3, which occurred on 03/09/2023. At the time of the accident, the deceased was aged about 25 years and was taking tuition classes at IMI Academy and allegedly earning Rs.50,000/- per month. However, no documentary evidence in support of the said income appears to be proved during the trial. The learned Tribunal considering fact that the deceased was highly educated, assessed his income at Rs.40,000/- per month.

05. Considering the disputed issues involved in the present appeal, this Court is of the view that it would be just and proper to permit respondent Nos.1 to 3 to withdraw 50% of the amount of compensation along with accrued interest thereon, subject to furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

06. Accordingly, the civil application stands disposed of.

JUDGE

**sandesh*