

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CIVIL APPLICATION (CAF) NO.1132 OF 2020
IN
FIRST APPEAL ST (NO.)6359 OF 2020**

Reliance General Insurance Co. Ltd.

VS.

Anil s/o Gulabrao Kapse and others.

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Shri D.N. Kukdey, Advocate for the appellant.

Smt. Uma Anil Bhattad, Advocate for respondent Nos.1 to 3.

CORAM : S.M. MODAK, J.

DATE : 30.04.2021.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Respondent Nos. 1 to 3 is represented by Smt. Uma Bhattad, Advocate. Though respondent No.4 is served, but has not appeared.

3. Heard both the learned Advocates for the parties.

4. There is delay of 128 in preferring an appeal. It took time for filing of an appeal. Due to compliance of the office procedure, the prayer is opposed.

5. I find the reasons are convincing. Hence the order.

6 Delay of 128 days in preferring the appeal is condoned.

6. Civil Application No.1132 of 2020 stands disposed of.

CIVIL APPLICATION NO.1133 OF 2020

1. As the entire amount is deposited, the stay granted earlier is continued till final disposal of the appeal.

2. Learned Advocate for the respondent Nos. 1 and 3 does not dispute the contention about the deposit of the entire amount.

3. Civil Application No.1133 of 2020 stands disposed of.

CIVIL APPLICATION (CAF) NO.910 OF 2021

The appellant-Insurance Company has deposited an amount of Rs.4,17,910/- and an amount of Rs.53,16,326/-. On account of financial difficulties, the claimants are asking for its withdrawal.

2. According to the Insurance Company, the husband/respondent No.1 was having independent source of income and he can not be said to be dependent on the income of the deceased. His occupation is described as a private service in the application. Whereas according to him, he has lost his job due to the lockdown. An attempt was made to go through the evidence of the respondent No.1 given before the trial Court. However, it could not be made available.

3. Out of the quantified amount, the trial Court has directed to disburse 50 % of the amount equally to original claimants and 50% to be deposited in the Nationalized Bank for a period of three years.

4. Issue of driver's license and permit has been answered against the Insurance Company. So, there may be dispute about the income and dependency. I think, the contesting respondents can be permitted to withdraw the 50 % of the deposited amount.

Hence, the following order:

- i) The application is partly allowed.
- ii) Nazar is directed to transfer 50 % of the deposited amount of Rs.4,17,910/- and Rs.53,16,326/- in the bank account of respondent Nos.1 to 3 equally, on furnishing bank details.
- iii) The respondent Nos.1 to 3' personal identification be obtained.
- iv) Remaining 50 % of the amount be deposited in the Nationalized Bank in the name of Respondent Nos.1 to 3 equally and an interest accrued may be credited to their respective bank accounts.
- v) The respondent Nos.1 to 3 are directed to furnish usual undertakings.

vi) The Civil Application is disposed of.

FIRST APPEAL ST (NO.)6359 OF 2020

Issue notice to the respondents.

2. Mrs. U.A. Bhattad, learned Advocate waives service of notice on behalf of the respondent Nos.1 to 3.

3. Copy of the appeal memo be supplied to her. There is no need to issue fresh notice to the respondent No.4. He is already served in delay condonation application and he has not appeared yet.

4. There is a request to hear the appeal at the admission stage itself on behalf of the respondent Nos.1 to 3. I do not find that this appeal be heard out of turn, as I already decided the withdrawal application.

5. Hence, **Admit** the appeal.

6. Call Record and proceedings.

(S.M. Modak, J.)