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

CIVIL APPLICATION (CAF) 2897 OF 2025
IN
FIRST APPEAL NO. 1034 OF 2024

(TATA AIG General Insurance Co Ltd Vs. Elise wd/o Arangassery Francis and ors)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. H.N. Verma, Advocate for appellant.
Mr. P.S. Mirache, Advocate for respondent Nos. 1 and 2.
Mr. J. Ahmed, Advocate for respondent No. 3.

CORAM : ABHAY J. MANTRI, J.

DATED : 12-08-2025

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Heard.

2. Having considered the grounds raised in the appeal memo, the appeal is '**Admitted**'.

3. Issue notice to respondents, returnable after four weeks.

4. Mr. Mirache, learned counsel, waives notice for respondent Nos. 1 and 2.

5. Call for record and proceedings.

CIVIL APPLICATION (CAF) 2897 OF 2025.

Heard.

2. Applicants/respondent Nos. 1 and 2 have filed this application to permit them to withdraw the amount of compensation deposited by the appellant, for which learned counsel for the appellant has strongly objected.

3. The crux of the argument of learned counsel for the appellant is that none of the respondents was dependent on the deceased. Therefore, they are not entitled to compensation exceeding Rs. 1,42,000/- and consequently, he has opposed the grant of withdrawal of the amount beyond said amount. To buttress his submission, he has relied on the judgment in ***Manjuri Bera (Smt). Vs. Oriental Insurance Company Ltd and Anr, (2007) 10 SCC 643; Bajaj Allianz General Insurance Co Ltd Vs. Sunita Virendra Alias Birendra Sahani, AirOnline 2024 bom 1141;*** and ***National Insurance Co Ltd. Vs. Birender and ors, AIR (2020) SCC 434*** and urged that the applicants are entitled to withdraw an amount only to the extent of Rs. 1,42,000/-. However, the learned counsel for the appellant does not dispute that applicant No. 1 is the widow of the deceased.

4. On the other hand, learned counsel for applicants is relying on the judgment in ***Sebastiani Lakra and Ors Vs National Insurance Co Ltd and anr, Law Finder Doc Id#1259445*** and submitted that the pensionary benefits, gratuity or grant of employment to kin of the deceased cannot be allowed to be deducted from the amount of compensation.

5. I have gone through the impugned judgment as well as the decisions relied on by both parties. At the outset, it appears that applicant No. 1, i.e. respondent No. 1, is the widow of the deceased who was living with the deceased. The facts, in the judgments, on which the learned counsel for appellant is relying were different than the case in hand as in all those matters, the major/married daughter living with husband and married and earning sons or the brother and sister of the deceased or the persons who were not legal heirs of the deceased were the claimants and therefore, finding recorded in the said judgements are hardly of any assistance to the appellant, in

support of its contention, at this stage. Consequently, I do not find substance in the objection raised by learned counsel for the appellant.

6. On the contrary, having considered the reasons disclosed in the application and the fact that applicant No.1 is the widow of the deceased and was residing with her, she is the legal heir of the deceased. Hence, I am of the view that applicant No. 1 is entitled to withdraw 50% amount along with interest accrued thereon. Thus, the application is partly allowed. The applicant No. 1 is permitted to withdraw 50% amount along with interest accrued thereon on her furnishing a usual undertaking.

7. Registrar (J) is directed to transmit 50% amount along with interest accrued thereon in the bank account of applicant no. 1, Elise, wd/o Arrangassery Francis, along with interest accrued thereon, within seven weeks, on her furnishing usual undertaking and bank account details to the Registry. The application is partly allowed and disposed of.

(ABHAY J. MANTRI, J.)

Belkhede