

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

975 CIVIL APPLICATION NO. 9846 OF 2015
IN FAST/32443/2012

AATISH SUBHASH JAWALE
VERSUS
THE ORIENTAL INSURANCE CO. LTD

...
Advocate for Applicant : Shirse Shivaji K. And Vyawahare A.r.
Deshpande A S & S S Wagh For R/1s P Chapalgaonkar For R
...

**CORAM : S V GANGAPURWALA, J.
Dated: 16th October 2015**

PER COURT :-

1. This is an application for withdrawal of amount. The learned counsel for the non-applicant opposes the application on the ground that it is a case of contributory negligence and that aspect has not been considered.

2. The claimant was not the driver of either of the vehicle in that case it would be a case of composite negligence and considering the best case for the non-applicant the other Insurance Company would be liable. If the non applicant proves the apportionment of negligence. In light of above, there would be no impediment to allow the withdrawal to the claimant. In the result, I pass following order.

3. The applicant is allowed to withdraw the amount deposited on submitting undertaking to the Tribunal that in case this

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Court directs the applicant to deposit the amount the applicant would deposit the same within one month. C.A. disposed of.

(S V GANGAPURWALA, J.)