

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

987 CIVIL APPLICATION NO. 2358 OF 2017
IN FA/104/2016

SUNITA RAJESH KUMAR BAJAJ AND OTHERS
VERSUS
BHARTI AXA GENERAL INSURANCE CO. LTD. THR ITS
MANAGERAND ANR

...
Advocate for Applicants : Chapalgaonkar S.g. (v.p.not Filed For
A.nos.2 & 3)

Advocate for Respondents : R. H. Dahat & S. S. Patil For R/1

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CORAM : V.K. JADHAV, J.
DATE : 17-02-2017.

P.C. :

1. The learned counsel appearing for the respondent-insurer has strongly resisted the application for withdrawal on the ground that deceased Rajesh was traveling in the vehicle involved in the accident as a gratuitous passenger and, therefore, the tribunal has directed the respondent-insurer to pay, & recover the amount. The learned counsel for the applicants submits that there is ample evidence placed before the tribunal to point out that deceased Rajesh was traveling in the vehicle truck involved in the accident along with his goods and the tribunal has drawn the inference of his traveling in the truck as a gratuitous passenger only on the basis that after the accident the goods being carried in the truck returned to the owner of the truck. The learned counsel for the applicant submits that deceased Rajesh was the only earning member of the family and the applicants were entirely depending

on his income.

2. Considering the above submissions and the challenge made to the judgment and award passed by the Tribunal and the fact that, the deceased was the bread winner of the family and the applicants were entirely dependent on his income, the applicants are permitted to withdraw 50% of the amount deposited before this court on furnishing undertaking to the satisfaction of the Registrar (Judicial). Civil application is accordingly disposed of.

3. Issue notice of final disposal to the respondents, learned counsel Shri S.G. Chapalgaonkar, waives for respondent nos. 1 to 4 original claimants. Call for record and proceedings.

(V.K. JADHAV)
JUDGE

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