

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL (ST.) NO. 6242 OF 2015
WITH
CIVIL APPLICATION (ST.) NO. 7270 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 7271 OF 2017
IN
FIRST APPEAL (ST.) NO. 6242 OF 2015**

Bajaj Alliance General Insurance Company
Limited

...Applicant

Versus

Smt. Shobha Sharad Bansode & Ors.

...Respondents

**WITH
FIRST APPEAL (ST.) NO. 6242 OF 2015
WITH
CIVIL APPLICATION NO. 3682 OF 2017
IN
FIRST APPEAL (ST.) NO. 6242 OF 2015**

Smt.Shobha Sharad Bansode & Ors.

...Applicants

IN THE MATTER BETWEEN

Bajaj Alliance General Insurance Company
Limited

...Appellant

Versus

Smt.Shobha Sharad Bansode & Ors.

...Respondents

.....

Mr. M.M.Sathaye for the Applicant in CAF Nos. 7270 of 2017 and 7271 of 2017.

Mr.Pravin Dabade i/b. Mr.Vikas Shivarkar for Respondent Nos. 1 to 4 and the Applicant in CAF No. 3682 of 2017.

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CORAM: MRS.MRIDULA BHATKAR, J.

DATED: NOVEMBER 23, 2017

P.C. :

CIVIL APPLICATION (ST.) NO. 7270 OF 2017

1. This Application is moved by the appellant/insurance company for service by publication on respondent nos. 1 to 4, who are the original claimants. However, today the learned counsel for respondent nos. 1 to 4 is present before the Court. Therefore, this Application has become infructuous and the service by publication on respondent nos. 1 to 4 is dispensed with, as the learned counsel for respondent nos. 1 to 4 is appearing.

2. This Application has become infructuous and it is disposed of accordingly.

CIVIL APPLICATION (ST.) NO. 7271 OF 2017

3. This Application is moved by the appellant/insurance company for service by publication on respondent no. 5, who is the owner of vehicle, in the local newspaper named Sakal at Pune .

4. Civil Application is allowed and is disposed of accordingly.

CIVIL APPLICATION NO. 3682 OF 2017

5. This Application is filed by the applicants/original claimants for withdrawal of the amount deposited by the insurance company.

6. By the order dated 01.04.2014 the learned Member, Motor Accident Claims Tribunal, Pune in M.A.C.P. No. 320 of 2010 has granted compensation of Rs. 8,46,000/- along with interest @ 7% p.a.

7. The learned counsel for the applicants submitted that the applicants are widow, minor son and parents of the deceased. The accident took place on 02.04.2009.

8. Learned counsel for the appellant/insurance company submitted that the insurance company has very good case on merits. The insurance company has brought evidence that the licence of the driver of the insured vehicle was fake. Thus, the insurance company has taken statutory defence and, therefore, this application for withdrawal of the amount is opposed and the applicants are not to be allowed to withdraw the amount of the compensation.

9. Considering the judgment and award and the submission of the learned counsel, applicant nos. 1, 3 and 4 are allowed to withdraw 50% of the amount of the compensation alongwith interest as per their entitlement on an usual undertaking . The remaining amount is to be deposited in the fixed deposit in any nationalized bank.

10. Civil Application is allowed and is accordingly disposed of.

(MRIDULA BHATKAR, J.)