

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 8175 OF 2017
IN
FIRST APPEAL (STAMP) NO. 5534 OF 2017

Bhagwan Ashok Patil and another .. Applicants
vs
The New India Assurance Co. Ltd. and ors. .. Respondents

Mr. M.M. Bhokrikar, Advocate for applicants
Mr. M. M. Ambhore, Advocate for respondent no. 1

CORAM : SUNIL P. DESHMUKH, J.
DATE : 23rd February, 2018

ORDER:

1. Heard learned counsel for applicants and learned counsel for respondent no.1.
2. It is contended by learned counsel on behalf of respondents that evidence led before the tribunal shows that liability could not have been fasten on to appellant-insurance company to the extent as has been fixed since the major fault had not been with the vehicle insured with appellant-insurance company. Besides, it is submitted that applicants have withdrawn some amount from insurance company of omni car. In the circumstances, it is submitted that appellant

has a strong chance of getting success in appeal and as such the request made under application is resisted.

3. It is further being submitted that the claimants had settled the matter with insurance company of the offending vehicle.

4. While it appears that the petitioners-applicants have received some amount from insurance company of omni car, it would be expedient in the facts and circumstances that applicant no. 2 be allowed to withdraw a sum of Rs.75,000/- from the amount deposited in the first appeal by the appellant-insurance company subject to filing an undertaking to the effect that in case appeal is allowed, the amount being withdrawn under this order would be deposited in this court within a period of three months from the date of decision in appeal in case the same is adverse to the interest of applicants.

5. Civil application is disposed of.

SUNIL P. DESHMUKH
JUDGE

pnd/-