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

CIVIL APPLICATION NO.9115 OF 2017 IN
FIRST APPEAL ST. NO.20822 OF 2017

Bajaj Allianz General Insurance Company Ltd. ... APPLICANT

VERSUS

Shankar Kondiba Pawar & others ... RESPONDENTS

.....
Shri Mohit Deshmukh, Advocate holding for
Shri S.G. Chapalgaonkar, Advocate for applicant
Shri M.P. Gundle, Advocate for respondents No.1 and 2

.....

WITH

CIVIL APPLICATION NO.9735 OF 2018 IN
FIRST APPEAL ST. NO.20822 OF 2017

Shankar Kondiba Pawar and another ... APPLICANTS

VERSUS

Bajaj Allianz General Insurance Company Ltd.
and others ... RESPONDENTS

.....
Shri M.P. Gundle, Advocate for applicants
Shri Mohit Deshmukh, Advocate holding for
Shri S.G. Chapalgaonkar, Advocate for respondent No.1

.....

CORAM: A.M. DHAVAL, J.

DATED : 30th July, 2018.

ORAL ORDER :

1. Heard learned Advocates for the parties. There is delay
of only 7 days in filing the First Appeal. Considering the procedural

formalities required to be followed by the Insurance Company and other grounds stated, the delay is condoned. Civil Application No.9115/2017 is allowed. First Appeal be registered.

2. First Appeal be admitted subject to depositing the interest amount within two weeks and bringing the Certificate from the Commissioner as per proviso to Section 30. If the interest amount is not deposited within two weeks and Certificate is not produced, there will be automatic vacation of the stay order. Issue notices to respondents in First Appeal of admission of the appeal. Mr. M.P. Gundle, learned counsel waives service for respondents No.1 and 2 in First Appeal. Issue notice to remaining respondents returnable on 20th August 2018.

3. The deceased was labourer engaged for sugarcane cutting and met with fall from a tractor, resulting into his death. The original claimant has filed Civil Application No.9735/2018 for withdrawal of the amount deposited. It is argued that, the deceased was not employee of the owner and was travelling on a tractor. There was breach of policy and, therefore, the Insurance Company is not liable. Considering the situation, the withdrawal of amount cannot be permitted. Civil Application No.9735/2018 for withdrawal of amount is rejected. It is directed that, the amount deposited be invested in Short Term Fixed Deposit.

4. The appellant to get the remaining respondents served

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within three weeks by taking effective steps. On service of remaining respondents, the parties agree to expedite the final hearing of the First Appeal. First Appeal be listed on 20th August 2018.

(A.M. DHAVALÉ)
JUDGE

fmp/