

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

**CIVIL APPLICATION NO. 2840 OF 2018
IN
FIRST APPEAL NO. 596 OF 2017**

Ujwala Chandrakant Kore ... Applicant

IN THE MATTER BETWEEN

Future Generali India Insurance Co. Ltd. ... Appellant

V/s.

Ujwala Chandrakant Kore & Ors. ... Respondents

Mr. D.R. Mahadik for the Appellant.

Mr. Uday G. Bodadare for the Respondents and Applicant in CAF/2840/18.

CORAM : K.K. SONAWANE, J.

DATE : 14th AUGUST, 2018.

P.C. :

1 Heard learned Counsel for the applicants-original claimants and the learned Counsel for appellant-Insurance Company. No one else appeared on behalf of Respondent-owner of the vehicle involved in the accident. The applicants-original claimants preferred the claim Petition No.640 of 2014 for recovery of damages caused to the vehicle following dash given by the another vehicle from the back side. Moreover, there was loss of milk stored in the tank of the vehicle of the applicants-claimants. Learned Tribunal after

appreciating the evidence on record, allowed the claim Petition partly and directed the appellant Nos.1 to 3 to pay compensation of Rs.10,50,000/- with interest to the applicants-claimants. Being dissatisfied with the impugned judgment and award the appellant-Insurance Company preferred an appeal bearing No.596 of 2017 and put in controversy the findings expressed by the Tribunal for monetary liability towards damages for the loss caused to the vehicle of the applicants-claimants.

2 In view of nature of the subject matter and the grounds of appeal raised on behalf of appellant-Insurance Company, I find it unjust and improper to allow the applicants-claimants for withdrawal of the compensation amount deposited in this Court towards damages for the vehicle of the applicants-claimants. Definitely the matter of issue is required to be dealt with on the anvil of merit. Therefore, at this juncture it is unsafe to allow the applicant to withdraw the amount of compensation without going deep into merits of the matter and hence the application being not sustainable at this stage, deserves to be dismissed.

3 Accordingly, the application stands dismissed.

(K.K. SONAWANE, J.)