

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

**CIVIL APPLICATION NO. 2252 OF 2016
WITH
CIVIL APPLICATION NO. 2253 OF 2016
IN
FIRST APPEAL (ST.) NO. 27372 OF 2015**

ICICI Lombard General Insurance
Co. Ltd. through its
Authorized Representative

.. Applicant

Vs.

Mr.Bhagwan Sahadu Gaikwad
& Ors.

.. Respondents

**ALONG WITH
CIVIL APPLICATION NO. 4434 OF 2018
IN
FIRST APPEAL (ST.) NO. 27372 OF 2015**

Ms.Deepika Prabala, Advocate I/b Res Juris for appellant.

Mr.Pritesh Bohade, Advocate for respondent.

**CORAM : A.S. CHANDURKAR, J.
DATE : 19TH DECEMBER 2018**

P.C.

CIVIL APPLICATION NO. 2252 OF 2016

1 Issue notice, returnable on 5th March 2019.

The learned counsel waives notice for respondent No.1.

CIVIL APPLICATION NO. 2253 OF 2016

2 As the entire amount of compensation has been deposited with the Claims Tribunal, the execution of the impugned award shall remain stayed during pendency of the proceedings. The civil application is disposed of.

CIVIL APPLICATION NO. 4434 OF 2018

3 Heard the learned counsel and perused the impugned judgment. It is submitted on behalf of the appellant that the vehicle in question was not insured with the appellant and in absence of any insurance policy, no law could have been saddled on the appellant.

4 *Prima-facie*, on perusal of paragraphs 11 to 14 of the impugned judgment, it is found that the Taxation Certificate of the cover note indicates the offending vehicle being registered with the appellant. In any event if it is found that the vehicle in question was not insured, the insured could be proceeded against the claimants being a third party, I am inclined to permit withdrawal of 40% of the amount of compensation as deposited.

5 The claimants shall file an undertaking within a period of eight weeks from today stating therein that in case the appeal is allowed, the amount withdrawn will be re-deposited with interest at such rate the Court may direct. The balance amount shall remain invested in fixed deposit. The civil application is disposed of.

(A.S. CHANDURKAR, J.)