

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

**CIVIL APPLICATION NO. 3463 OF 2016
IN
FIRST APPEAL STAMP NO. 13294 OF 2016**

United India Insurance Company Limited ... Applicant
Versus
Saluddin Moh. Hanif Shaikh and others ... Respondents

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Ms Varsha Chavan, Advocate for the Applicant.
Mr. Tejpal S. Ingale, Advocate for the Respondent Nos. 1 to 3.

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CORAM : A. S. CHANDURKAR, J.

DATE : 22nd NOVEMBER, 2018.

P. C.:

1. Not on board. Upon mentioning taken up on board.
2. Since, the respondent No.4 was proceeded ex-parte before the claims tribunal, service on said respondent is dispensed with.
3. Considering the reasons mentioned in application, the delay in filing the appeal stands condoned.
4. Civil Application is allowed and disposed of.

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1. Heard.
2. *Admit.*

3. Mr. Ingale, learned Counsel waives notice on behalf of respondent Nos. 1 to 3.
4. Call for the Record and Proceedings.

CIVIL APPLICATION No. 4060 of 2018

1. The claimants seek permission to withdraw the amount of compensation as deposited. The prayer is opposed by the learned Counsel for the appellant. Prima-facie, in the light of the observations made in paragraph 12 of the impugned judgment and the fact that the driver of the offending vehicle was not examined by the present appellant, a case has been made out to permit the applicants to withdraw 50% of the amount of compensation.
2. Accordingly, the claimants are permitted to withdraw 50% of the amount of compensation as deposited subject to filing an undertaking in this Court within a period of six weeks that in case the appeal is allowed the amount so withdrawn shall be repaid with interest at such rate the Court may direct.
3. Civil application is disposed of.

(A. S. CHANDURKAR, J.)