

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

**CIVIL APPLICATION NO. 2209 OF 2016
IN
FIRST APPEAL (ST.) NO. 27545 OF 2015**

Bajaj Allianz General Insurance Co. Ltd. .. Applicant

Vs.

Smt. Snehalata Sewalal Jaiswal & Ors. .. Respondents

**WITH
CIVIL APPLICATION NO. 4117 OF 2018
IN
FIRST APPEAL (ST.) NO. 27545 OF 2015**

Ms. Yogita Deshmukh, Advocate I/b Mr.Milind Sathaye, Advocate for applicant/appellant.

Mr.T.J. Mendon, Advocate for respondent Nos.1 to 4.

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

P.C.

**CIVIL APPLICATION NO. 4117 OF 2018
(FOR WITHDRAWAL)**

1 Heard the learned counsel and perused the impugned judgment. The learned counsel for the claimants by relying upon the decision in *T.S. Shylaja Vs. Orientral Insurance C.Ltd. & Anr.*¹, submits that the learned Commissioner on the basis of evidence available has held that there exists relationship of employer and employee between the owner of the vehicle and the deceased. The application is opposed by the learned counsel by the learned counsel for the appellant on the ground that the relationship of

1 2014 ACJ 480

employer and employee could not have been held to be duly proved.

2 *Prima-facie*, considering the observations made in that regard in the impugned judgment, the claimants are permitted to withdraw 50% amount of the compensation as deposited. The claimants shall file an undertaking within a period of eight weeks stating that in case the appeal is allowed, the amount so withdrawn will be repaid with interest at such rate the Court may direct. The balance amount shall remain invested in fixed deposit. The civil application is disposed of.

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- 1 Await service.
- 2 To come up as per CMIS date.

(A.S. CHANDURKAR, J.)