

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

942 CIVIL APPLICATION NO.11779 OF 2018
IN FA/1408/2018

SHOBHA VASANT PATIL (NIKAM) AND ANR
VERSUS
M/S SHRIRAM GENERAL INSURANCE CO. LTD., THR ITS BRANCH
MANAGER AURANGABAD AND ORS

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Advocate for Applicants : Ms. Sabahat T. Kazi
Advocate for Respondent No.1 : Mr. S.G. Chapalgaonkar

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**CORAM : P.R. BORA, J.
DATED : 08th FEBRUARY, 2019**

PER COURT:-

- 1) Heard learned counsel for applicant and learned counsel appearing for appellant insurance company. Perused the application and the impugned judgment.
- 2) The appellant-insurance company has disputed the involvement of the offending vehicle insured with it, in occurrence with the alleged accident. The learned counsel appearing for the insurance company pointed out that the FIR was registered against unknown vehicle, and after the lapse of about eight months, the particulars of the vehicle insured with the present insurance company came to be provided and the same vehicle was alleged to be involved in the alleged accident. The learned counsel further submitted that on the basis of supplementary statement recorded of the informant after the period of eight months, the insured vehicle came to be impleaded in the present accident. The learned counsel

further submitted that the supplementary statement of the informant reveals that he had received the information about the involvement of the offending vehicle from some other person, and the statement of the said person revealed that he has received the information from the police. The learned counsel further brought to my notice that the insurance company was filed an application before the Tribunal to call the Investigating Officer as a witness so as to bring on record the necessary particulars as about the investigation carried out in the offence registered in connection with the alleged accident, however, the permission was refused by the Tribunal.

3. I have given due consideration to the submissions made by the learned counsel appearing for the parties. The involvement of the offending vehicle itself is disputed by the insurance company. There appears substance in the objection so raised. I am, therefore, not inclined to permit any withdrawal at this stage. It would be preferable and in the interest of the parties if the appeal itself is heard at the admission stage. The learned counsel for the applicant, however, submits that the applicants are ready to furnish the Bank guarantee of the equal amount, which may be permitted to be withdrawn by this Court, and in the circumstances, has prayed for permitting the applicants to withdraw at least 50% of the deposited amount. In view of the submission so made, the following order is passed:-

ORDER

[i] The applicants are permitted to withdraw 50% of the deposited amount on submitting Bank Guarantee in the equal amount of any Nationalized Bank to the satisfaction of the Registrar of this Court.

[iii] Balance 50% amount be invested in Fixed Deposit Receipt in any Nationalized Bank initially for the period till disposal of the appeal.

[iii] The Civil Application stands disposed of.

**(P.R. BORA)
JUDGE**

Sudhir Rane