

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

**34 CIVIL APPLICATION NO.13030 OF 2019  
IN FA/1399/2019**

**VITHAL YEMAJI KADAM AND ANR  
VERSUS  
TATA AIG GENERAL INSURANCE CO. LTD., THR ITS MANAGER,PUNE AND  
ANR**

...  
Advocate for Applicants : Mr. Agrawal Pavankumar S.  
Advocate for Respondent no.1 : Mr. Rohit H. Dahat and Mr. S. S. Patil  
...

**CORAM : MANGESH S. PATIL, J.**

**DATE : 02.12.2019**

**PER COURT :**

Heard.

2. Issue notice to the respondents. Learned advocate Mr. Dahat for the respondent no.1 insurance company waives service.

3. This is an application for withdrawal of the compensation deposited by the respondent insurance company which has preferred the appeal.

4. The learned advocate for the insurance company submits that there is a serious dispute as to the rashness and negligence in as much as two motorcycles were involved in the accident. The deceased himself was riding one of the motorcycle. The initial FIR charged him for causing the accident by rash and negligent driving. After 4 months, the claimant have lodged counter FIR alleging that the rider of the present motorcycle was

responsible.

5. Considering the papers and the impugned judgment, in my considered view applicants can be allowed to withdraw 50% of the amount by furnishing usual undertaking.

6. The application is allowed. The applicants are allowed to withdraw 50% of the amount of the compensation deposited in this Court by furnishing usual undertaking.

**(MANGESH S. PATIL, J.)**

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