

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

39 CIVIL APPLICATION NO.13165 OF 2019
IN FAST/17992/2019

JYOTI RAJENDRA GADEKAR AND ORS
VERSUS
SHRIRAM GENERAL INSURANCE CO. LTD., THR ITS BRANCH MANAGER,
AURANGABAD AND ORS

...

Advocate for Applicants : Mr. Gandhi Amol S.
AGP for Respondent No. 1 : Mr. V.N. Upadhye, h/f Mr. V.S. Janephalkar.

CORAM : MANGESH S. PATIL, JJ.
DATE : 13/11/2019

PER COURT :

Heard both the sides.

2. The applicants who are the original claimants are seeking withdrawal of amount of compensation deposited by the respondent No. 1/Insurance Company in the Tribunal in a proceeding initiated by them under Section 166 of the Motor Vehicles Act.

3. The learned advocate for the respondent No. 1/Insurance Company strongly opposes the application. He submits that there is a serious dispute as to the involvement of the vehicle. The truck has been seized after lapse of 35 days of occurrence of the alleged accident. It has been seriously disputing the claim on the ground that

there has been a collusion between the claimants and the owner and driver of the truck.

4. Considering the fact that the respondent No. 1/Insurance Company has not led any evidence before the Tribunal to substantiate its defence, in my considered view when the driver has already been prosecuted for causing the accident, the claimants deserve to be allowed to withdraw 50 % of the amount of compensation in the proportion decided by the Tribunal subject to furnishing usual undertaking.

5. The Civil Application is allowed. The Tribunal shall allow the applicants to withdraw 50 % of the amount deposited by the Insurance Company on their furnishing undertaking to its satisfaction.

(MANGESH S. PATIL, J.)

mkd