

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

**964 CIVIL APPLICATION NO.15293 OF 2017
IN FAST/29704/2017**

**RESHMA NISAR CHAUSE AND ORS
VERSUS
CHOLAMANDALAM GENERAL INSURANCE COMPANY LTD., THR
ITSBRANCH MANAGER, AURANGABAD**

...
Advocate for Applicants : Mr. Adgaonkar Ravibhushan P
Advocate for Respondent No.1 : Mr. S. G. Chapalgoankar
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 12th JULY 2019

ORDER :

. Present application has been filed for withdrawal of the amount deposited by respondent No.1. As per the order of this Court, amount of Rs.9,87,077/- has been deposited.

2. Heard both sides.

3. Learned Advocate appearing for respondent No.1 submitted that defence was taken by the Insurance Company that the offending vehicle was not insured with it. He has pointed out the specific contention taken in the statement. Under such circumstance, he submits that when the appeal has been filed he has every objection to allow withdrawal of the amount.

4. It is to be noted that on the said contention of respondent No.2, specific issue was framed at issue No.2 and the competent Court has answered that issue in affirmative. However, the prima facie fact that is required to be considered is that opponent No.2 i.e. present respondent No.1 choose not to led any oral evidence. Under such circumstance, case is made out for partial withdrawal of the amount.

5. Applicant No.1 is allowed to withdraw amount of Rs.2,00,000/- and applicant Nos.2 and 3 are allowed to withdraw Rs.1,00,000/- each subject to giving an undertaking within a period of eight weeks that they would make the said amount good, if directed at the time of final disposal of the appeal.

6. Civil Application stands disposed of accordingly.

(Smt. Vibha Kankanwadi, J.)

Shubham/