

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

940 CIVIL APPLICATION NO.1708 OF 2019

IN FA/1427/2018

SUMAN KASHINATH CHAVAN

VERSUS

BHAU GHUMSING PAWAR AND ANR

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Advocate for Applicant : K. B. Jadhav h/f

Ms.Kingaonkar Pallavi S.

Advocate for Respondent No.2 : Mr. A.S. Usmanpurkar

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 21st JUNE 2019

ORDER :

1. Present application has been filed for withdrawal of the amount deposited by present respondent No.2. Respondent No.2 has deposited amount of Rs.3,41,702/- in pursuant to the order of this Court. The application has been objected by respondent No.2 on the ground that the policy that was given was Act only policy and the present applicant was a gratuitous passenger. Therefore, the risk was not covered and the insurance company ought to have been exonerated.

2. Taking into consideration the fact that the learned tribunal has held the opponent No.2, jointly and severally liable to pay at this stage, case is

made out for allowing the applicant to withdraw the part of the amount. Hence, applicant is allowed to withdraw an amount of Rs.1,50,000/- by giving undertaking within a period of one month in this Court that she would make good the said amount, in case directed at the time of final disposal of the appeal.

3. With these observations, the Civil Application stands disposed of.

(Smt. Vibha Kankanwadi, J.)

Shubham/