

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.679 OF 2019
IN
FIRST APPEAL (STAMP) NO.18545 OF 2015**

Tulsiram Gangaram Vajjal

...Applicant/Appellant

In the matter between
Bajaj Allianz General Insurance Co.
Ltd. and Anr.

Versus

Tulsiram Gangaram Vajjal and Anr.

...Respondents

.....

Ms Priyanka Dable for the Respondent No.1 in FAST/18545/2015 and
for the Applicant in CAF/679/2019.

Ms Yogita Deshmukh-Chitnis i/b. Mr. M.M. Sathaye for the Appellants
in FAST/18545/2015 and for the Respondent No.1 in CAF/679/2019.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 18th FEBRUARY, 2019.

P.C.:-

By this application the Applicant has sought withdrawal of
the amount awarded as per judgment and award dated 21st August,
2014 in M.A.C.P. No.297 of 2010.

2. By the impugned award the Member, Motor Accident
Claims Tribunal, Thane, has awarded an amount of Rs.1,59,000/- with
interest @ Rs.7% per annum from the date of application till its

realization.

3. The learned counsel for the Applicant submits that the Applicant is a Tribal and needs the amount for his day to day expenditure. The learned counsel for the Respondent submits that the vehicle involved in the accident was a private vehicle and that the same was used for commercial purpose. She submits that the defence raised by the Insurance Company has been supported by statement of police constable-Prabhakar, who was examined as a witness. Despite which the learned Judge has held the Insurance Company and the owner jointly and severally liable to pay the compensation.

4. Considering the grounds stated in the application as well as in the appeal memo, it would be appropriate to disburse 50% of the compensation deposited by the Respondent-insurance company.

5. Hence, 50% of the compensation deposited by the Insurance Company is ordered to be paid to the Applicant. Application stands disposed of in above terms.

6. It is made clear that the payment is subject to the final

outcome of the appeal. The Applicant shall file an undertaking before the Tribunal that they will abide by the final order that may be passed in the appeal.

(SMT. ANUJA PRABHUDESSAI, J.)