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

**CIVIL APPLICATION NO.3966 OF 2018
IN
FIRST APPEAL NO.919 OF 2018**

Jyoti Avinash Shinde and ors ... Applicants.

In the matter between

Bajaj Allianz General Insurance
Co. Ltd ... Appellant.

V/s.

Jyoti Avinash Shinde and ors ... Respondents

Mr. Sudhakar G. Thorat, for Applicant.

Mr. Devendranath S. Jhoshi, for the Appellant.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 17th JANUARY, 2019.

P.C. :

1] Heard learned counsel for the applicant and the appellant Insurance Company.

2] This application is preferred by the original claimants seeking withdrawal amount of the compensation deposited by the Applicant insurance company.

3] Learned counsel for the appellant Insurance company has opposed this application on the ground that the involvement of

offending vehicle in the accident itself is disputed. It is submitted that the complaint is lodged 40 days after the accident and not a single eye witness is examined to prove that the offending vehicle was involved in the accident.

4] Learned counsel for the applicant points out that the police after lodging of the complaint carried out necessary investigation and filed chargesheet in the Court against the the driver of the offending vehicle, showing that the offending vehicle is involved in the accident. The Insurance Company has also not produced any evidence nor examined the owner of the offending vehicle, it's driver to show that the said vehicle was involved in the said accident.

5] In view thereof, at this stage, applicants are permitted to withdraw 50% of the decretal amount of compensation deposited in the Court, subject to furnishing of usual undertaking.

6] Application is disposed off accordingly..

[DR.SHALINI PHANSALKAR-JOSHI, J.]