

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

**INTERIM APPLICATION NO.17613 OF 2022
IN
FIRST APPEAL NO.169 OF 2022**

Chhaya Ramesh Sonawane ...Applicant

Versus

Reliance General Insurance Company ...Respondents
Limited and Anr.

...

Mr. Bharat Gadhavi for the Applicant.

Mr. Suryajeet P. Chavan i/b. Mr. Pandit Kasar for the Respondent.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 17th OCTOBER, 2022.

P.C. :-

1. The Applicant, who is the original Claimant has sought withdrawal of the compensation deposited by the Appellant-Insurance Company. By the impugned Judgment, the Claims Tribunal has awarded compensation of Rs.19,77,000/- with interest @5% p.a. from the date of the application till realization.

2. The challenge to the Judgment and Award is mainly on the ground of breach of terms and conditions of the policy alleging that the driver of the offending vehicle was not holding valid and effective

driving license and further for non joinder of the parties to the Claim Petition.

3. The Tribunal has recorded a finding that the Appellant-Insurance Company had failed to prove breach of terms and conditions of the policy. Even otherwise the vehicle was duly insured and in case of breach of terms and conditions of the policy as alleged, the Appellant is yet liable to satisfy the Award and recover the money from the insured. Under the circumstances, prima facie the Claimant cannot be deprived of the compensation.

4. Considering the above facts and circumstances, 50% of the compensation deposited by the Appellant-Insurance Company with proportionate interest accrued thereon is ordered to be paid to the Applicant/original Claimant subject to filing of an undertaking that the Claimant shall refund the amount with interest in the event the Appellant succeeds in the appeal.

5. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)