

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

**INTERIM APPLICATION NO.19005 OF 2022
IN
FIRST APPEAL NO.433 OF 2021**

Smt. Jayashree Dilip Katare ...Applicant

In the matter between

Bajaj Allianz General Insurance ...Appellant
Company Ltd.

Versus

Smt. Jayashree Dilip Katare and Ors. ...Respondents

...

Mr. Devendranath Joshi for the Appellant.

Mr. Amol Gatne i/b. Ms Swati Mehta for the original claimant.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 10th NOVEMBER, 2022.

P.C. :-

1. The Applicant, who is the original Claimant has sought withdrawal of the compensation deposited by the Appellant-Insurance Company as per the impugned Judgment and Award dated 06/02/2020 in M.A.C.P No.2109 of 2012.

2. Mr. Joshi, learned counsel for the Appellant-Insurance Company opposes the application mainly on the ground that the offending vehicle was not insured by the Appellant-Insurance Company. While considering the issue, the Claims Tribunal has recorded a

categorical finding that as per Exhibit-68 the offending vehicle was insured by the Appellant-Insurance Company under policy certificate/cover note No.6446456564 valid from 15/06/2012 to 14/06/2013, which covers the date of the accident. The Tribunal has also recorded a finding that the Appellant -Insurance Company had not produced the extract of the premium registered in the year 2012. The issue needs to be decided on merits and till such time the Applicant, who is the victim of the accident, cannot be deprived of the compensation. No prejudice will be caused to the Appellant-Insurance Company as withdrawal of the amount is always subject to final outcome of the appeal.

3. Hence, the Applicant-original Claimant is permitted to withdraw 50% of the compensation with proportionate interest accrued thereon, subject to an undertaking before the Claims Tribunal that the amount will be refunded with interest in the event the Appellant succeeds in the appeal.

4. Application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)