

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

918 CIVIL APPLICATION NO.8237 OF 2023
IN FAST/22424/2022

BHARTIBAI RAMRAO HONMANE
VERSUS
THE ORIENTAL INSURANCE CO.LTD

...
Advocate for Applicant : Mr. H. B. Nandagavale
Advocate for Respondent : Mr. M.K.Goyanka

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: July 07, 2023

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PER COURT :-

1. This is an application seeking withdrawal of the amount deposited by the appellant insurance company.
2. The appellant impugns the award passed by the Tribunal on the ground that the other vehicle involved in the accident was found to be driven in rash and negligent manner. Driver of that vehicle was charge-sheeted, however, the Tribunal ignoring the police papers fastened the entire liability on the driver of the truck and consequently, on the appellant. Learned counsel for the claimants would submit that this is a case of composite negligence.
3. In that view of the matter, entitlement of the claimants cannot be disputed. The dispute qua the owner and insurer of the vehicles involved in the accident can be determined in the appeal and interse liability can be fixed, however, the claimants are entitled to withdraw the amount.

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4. Considering the submissions advanced, it would be appropriate to permit the applicant to withdraw 50% of the amount deposited by the appellant/insurance company alongwith accrued interest thereon, subject to furnishing of usual undertaking to be submitted before the Registrar (Judicial) of this Court.

5. Civil application stands disposed off.

(S. G. CHAPALGAONKAR, J.)

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