

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

917 CIVIL APPLICATION NO.15639 OF 2022
IN
FIRST APPEAL NO.2137 OF 2022

Ankit Chatur Choudhari,
Age : 16 years, Occupation : Education
Since Minor hence
Through Guardian – Father
Chatur Lotan Choudhari,
Age : 47 years, Occupation : Service,
Resident of : Room No.13, Shivshakti Bhavan-3,
Ekviranagar, Near Shivaji Chowk,
Santoshi Mata Temple Road,
Kalyan [W], Kalyan D.C.,
District Thane.

.. APPLICANT
[Org.Claimant]

VERSUS

- 1] Bajaja Allianz General Insurance
Company Limited
Through the Manager,
Resident of : 1st Floor, Shri Ganesh Plaza,
Near Hotel Sandip, Kute Road,
Backside of Mahamarg Bus Stand,
Nashik.
- 2] Bhausahab Ananda Gangurde
Since deceased hence
Through Legal Representative
- 2-A. Kalpana Bhausahab Gangurde
Age: 45 years, Occupation : Service
Resident of : Krushna Flat No.103,
Ramchandra Colony, Dharmaji Place,
Mourya Nagari, Post – Manere,
Taluka Amarnath, District Ulhasnagar.

- 3] Vijaykumar Kalu Masule,
Age: 40 years, Occupation : Driver,
Resident of : Gotane,
Taluka and District Dhule.
- 4] Bhaskar Namdeo Suryawanshi
Age: 45, Occupation : Truck Owner,
Resident of : Fagne,
Taluka and District Dhule.
- 5] The Divisional Officer,
The Oriental Insurance Company Limited,
Resident of : Pshpanjali Market,
Infront of Rajkamal Talkies,
Dhule, District Dhule.

.. RESPONDENTS

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Mr.Mukul S. Kulkarni, Advocate for the applicants
Mr.M.R.Deshmukh, Advocate for the respondent no.1
Mr.B.K.Patil, Advocate for the respondent No.2A.

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CORAM : ARUN R. PEDNEKER, J.

DATE : 27.07.2023

P.C. :

- 1] Heard the learned counsel for the parties.
- 2] The quantum of compensation is not at issue in the present First Appeal. The appeal is filed on the ground of contributory negligence.

3] In the event the Insurance Company succeeds in the present First Appeal, then the compensation would be borne by the other Insurance company. As such, the claim of the claimants would not be reduced.

4] In view of the same, the following order is passed :

ORDER

i] In view of the same, the applicant is permitted to withdraw the amount of Rs.1,25,000 /- along with the interest accrued thereon.

ii] The applicant to file undertaking that in the event the appellant succeeds in the matter, the amount withdrawn will be returned to the Court within eight weeks of the order of this Court.

iii] Civil Application is disposed of accordingly.

[ARUN R. PEDNEKER]
JUDGE