

VRJ

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

**FIRST APPEAL (ST) NO.5805 OF 2017
WITH
CIVIL APPLICATION NO.1084 OF 2017
IN
FIRST APPEAL (ST) NO.5805 OF 2017
WITH
CIVIL APPLICATION NO.1083 OF 2017
IN
FIRST APPEAL (ST) NO.5805 OF 2017**

United India Insurance Company
Limited ... Appellant
V/s.
Rajnidevi Gopal Mohta & Ors. ... Respondents

**WITH
INTERIM APPLICATION NO.178 OF 2023
IN
FIRST APPEAL NO.5805 OF 2017**

Rajnidevi Gopal Mohta & Ors. ... Applicants
V/s.
United India Insurance Company
Limited Motor Third Claims Party Hub ... Respondent

Mr. Rahul Mehta i/by KMC Legal Venture for the
appellant.

Mr. S.P Shetty i/by Deepti B. Mistry for the respondent
Nos.1 to 3 and 5.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 9, 2023

P.C.:

Interim Application No.178 OF 2023

1. The application is by the original claimants seeking withdrawal of the amount of compensation.
2. Learned advocate for the insurance company objected for withdrawal by contending that the insurance company has made out *prima facie* case on merits as the vehicle involved in the accident had been used in various other accidents as a tool to get the compensation.
3. On overall consideration of the facts and circumstances and considering the contention raised by the insurance company, in my opinion, the applicants can be permitted to withdraw 50% of the amount of compensation along with accrued interest on the amount of compensation, subject to filing an undertaking within four (4) weeks from today in this Court stating that in case the decision in the first appeal goes against the claimants, they will reimburse the insurance company with the compensation amount withdrawn along with interest at the prevalent bank rate.
4. The interim application is disposed of in above terms. No costs.

Civil Application No.1083 of 2017.

5. The insurance company has filed present application seeking condonation of delay in filing appeal challenging the award passed by the Tribunal. According to the insurance company, there is delay of 62 days in filing the appeal.

6. Considering the reasons stated therein, the civil application is allowed.
7. List the first appeal for admission on **7th February, 2023**.

(AMIT BORKAR, J.)