



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

**INTERIM APPLICATION NO. 11741 OF 2024
IN
CIVIL FIRST APPEAL NO. 1098 OF 2024**

Subhash Namdev Hiwale And Anr.

...Applicants

vs.

Bajaj Allianz General Insurance
Company Ltd.

...Respondent

Mr. Amol Gatne i/by Mrs. Swati Uday Mehta	Advocate for the Applicants
Mr. Sarthak S. Diwan	Advocate for the Appellant/Respondent

CORAM : S. M. MODAK, J.

DATE : 20th AUGUST 2024

P.C. :-

1. Heard learned Advocate for the Appellant-Insurance Company and learned Advocate for the Respondent-Insurance Claimant.
2. Plea was taken before tribunal about absence of valid license by the driver, who is an employee of the Transport Company. Though some evidence was given, it was discarded. The relevant observations find place in para nos. 21 and 23 of the impugned judgment. At the

most, the Appellant may pray for pay and recovery order. There is one more ground taken i.e. ground no. 4 about income.

3. In view of that the claimant can be permitted to withdraw 80%.

Hence, the Order:-

ORDER

(i) The Applicant-Respondent No. 1 is permitted to withdraw 80% of the deposited amount alongwith accrued interest on furnishing a usual undertaking.

(ii) Interim application No. 11741 of 2024 is disposed of.

4. Appeal be kept on **24th September 2024**.

5. Let Appellant to verify about service on Respondent No. 2- Transport Company and if not effected, private notice be issued with affidavit of compliance be filed.

[S. M. MODAK, J.]