

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.8785 OF 2024
(FOR WITHDRAWAL)
WITH
FIRST APPEAL NO.165 OF 2024
with
INTERIM APPLICATION NO.1483 OF 2024
(FOR STAY)

Vijay Baban Kamlakar and ors. Applicants
In the matter of
Bajaj Allianz General Insurance Co. ... Appellant
versus
Vijay Baban Kamlakar and ors. Respondents

Mr. Akshay Kulkarni, Advocate for the Applicants/claimants.
Mr. Sartak Diwan, Advocate for the Appellant-Insurance Company.

CORAM : ARUN R. PEDNEKER, J.
DATE : 2nd AUGUST, 2024.

P.C. :

1. The present appeal is filed by the Insurance Company on the ground that the motorcycle owner, so also the Insurance Company of the motorcycle, on which, the claimant was travelling is not made party. The second ground raised in the appeal is as regards the contributory negligence.

2. Since this is a case of composite negligence, as far as the pillion rider is concerned, the pillion rider can recover from either of the joint tortfeasor. In view of the same, the applicants are permitted

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to

withdraw 75% of the amount deposited in the Tribunal along with accrued interest thereon till date on filing usual undertaking to the satisfaction of the Presiding Officer of the Tribunal. Interim Application No.8785 of 2024 is allowed and disposed of.

4. The first appeal is admitted.

5. On admission, Mr. Kulkarni, learned counsel, waives notice for on behalf of the respondents/claimants.

6. The stay to the impugned order, granted earlier, stands confirmed till the final disposal of the appeal.

7. The Interim Application No.1483 of 2024 stands disposed of.

(ARUN R. PEDNEKER, J.)