

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

**INTERIM APPLICATION NO.7844 OF 2024
IN
FIRST APPEAL (ST) NO.31539 OF 2023**

Mr.Aslam Khajamiya Tade & Ors. Applicants

V/s.

Reliance General Insurance Co. Ltd., Thane Respondent

**WITH
INTERIM APPLICATION NO.17494 OF 2023
WITH
INTERIM APPLICATION NO.17495 OF 2023
IN
FIRST APPEAL (ST) NO.31539 OF 2023**

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Reliance General Insurance Co. Ltd., Thane Applicant

V/s.

Mr.Aslam Khajamiya Tade & Ors. Respondents

Ms.Varsha Chavan, for the Applicant.

Ms.Shalini Shankar, for the Respondent.

CORAM : ARUN R. PEDNEKER, J.

DATE : 23rd JULY 2024

P.C:-

INTERIM APPLICATION NO.7844 OF 2024

. Hear learned counsel for the parties.

2. The present Appeal is filed on the ground that the driver of the vehicle did not have a valid licence and the tanker was not holding valid and effective permit, fitness certificate, so also the tanker is not covered under the Insurance Policy. However, the Tribunal on consideration that the evidence has held the tanker has a valid Insurance Policy and as regards the issue of driver and tanker not holding valid effective permit and fitness and licence at the time of the accident, the Tribunal has answered against the Appellant. The Tribunal has discussed the said issue at Paragraph Nos.13 and 14 of the impugned order. *Prima facie* this case would be covered within the principle of pay and recover and the finding of the Tribunal *prima facie* cannot be said to be perverse. As such, I permit the Applicant to withdraw 60% amount in the proportion mentioned in the order of the Tribunal along with accrued interest thereon.

3. At the request of the Applicant liberty to apply for further withdrawal, if any, exigency.

(ARUN R. PEDNEKER, J.)