



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL FIRST APPEAL (ST) NO. 11836 OF 2023
ALONGWITH
INTERIM APPLICATION NO. 15624 OF 2023

United India Insurance
Co. Ltd., Mumbai Thr. Its
Regional Manager

...Appellant

vs.

Alka Tanaji Upadhye and Ors.

...Respondent

ALONGWITH
INTERIM APPLICATION NO. 11499 OF 2024
IN
CIVIL FIRST APPEAL (ST) NO. 11836 OF 2023

Alka Tanaji Upadhye and Ors.

...Applicant

vs.

United India Insurance
Co. Ltd.

...Respondent

Amol A. Gatne	Advocate for the Appellant
Rupesh A. Zade	Advocate for the Respondent Nos. 1 to 4

CORAM : S. M. MODAK, J.

DATE : 23rd AUGUST 2024

P. C. :-

INTERIM APPLICATION NO. 15624 OF 2023

1. Heard learned Advocate for the Applicant-Insurance Company

and learned Advocate for Respondent Nos. 1 to 4. Respondent No. 5 is owner. He is duly served but not appeared.

2. There is a delay of 218 days in filing an appeal. It is opposed.

3. For the reasons stated in the application, delay is condoned.

4. Interim application No. 15624 of 2023 is disposed of.

INTERIM APPLICATION NO. 11499 OF 2024

5. Heard learned Advocate for the Claimant and learned Advocate for the Insurance Company.

6. There was plea of absence of driving license. It was established.

The contention is in spite of the said findings, the Insurance Company is neither exonerated nor there is an order of pay and recovery. In such circumstances, let 50% withdrawal be allowed. Hence the Order:-

ORDER

(i) The Claimants are permitted to withdraw 50% of the deposited amount alongwith interest on furnishing usual undertaking.

(ii) Interim application No. 11499 of 2024 is disposed of.

CIVIL FIRST APPEAL (ST) NO. 11836 OF 2023

7. Notice of delay condonation is already served on owner-Respondent No. 5.

8. Learned Advocate for Claimants waives notice.
9. Call record and proceedings.
10. Stand over to **04th October 2024.**

[S. M. MODAK, J.]