

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.12684 OF 2024
[FOR WITHDRAWAL]
WITH
FIRST APPEAL NO.1283 OF 2022

SATISH
RAMCHANDRA
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Date: 2024.09.23
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Pratiksha Vijay Khane ...Applicant

In the matter between:-

Liberty General Insurance Limited,
Mumbai ...Appellant

vs.

Pratiksha Vijay Khane and Ors. ...Respondents

WITH
INTERIM APPLICATION (ST) NO.26901 OF 2024
[NOT ON BOARD, TAKEN ON BOARD]
WITH
FIRST APPEAL NO.1283 OF 2022

Savita Datta Khane ...Applicant

In the matter between:-

Liberty General Insurance Limited,
Mumbai ...Appellant

vs.

Pratiksha Vijay Khane and Ors. ...Respondents

Mr.T.J.Mendon:-	Advocate for Applicant.
Ms.Harshada M. Rane:-	Advocate for Appellant Insurance Company.

CORAM : S. M. MODAK, J.

DATE : 20th SEPTEMBER 2024

P. C. :-

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1. Heard learned Advocate for the Appellant Insurance Company and learned Advocate for the Claimants – Respondents.
2. It is true that in the FIR, details of the vehicle – driver – owner are not mentioned. The identity of the vehicle came to know after 41 days when two statements of the witnesses are recorded. It is reflected in Para No.28 of the Award. Their names are, witness – Khalge and witness – Durge. The Police statements are dated 31st December 2015 (Exhibit-39 and Exhibit-37).
3. There is a strong objection on behalf of the Appellant for any withdrawal for the reason that this is a hit and run case and if they succeed, it will be difficult to recover the amount from the Claimants. It is also opposed on the ground of not mentioning any reason in the withdrawal Application.
4. According to Mr.Mendon for the Claimants, if the identity of the vehicle is disclosed during investigation, it does not make any

difference. He relied upon the observations in case of *Janabai wd/o Dinkarrao Ghorpade & Ors. v/s. M/s. I.C.I.C.I. Lambord Insurance Company Ltd.*¹

5. I am inclined to permit 50% withdrawal. The reasons may be mentioned or may not be mentioned because ultimately, the Claims Tribunal – Raigad Alibag has awarded them compensation. Just because Appeal is filed, it does not mean that the Claimants cannot be permitted to withdraw any amount. I do not find, there is a necessity of mentioning the reason in each and every Application. Hence, order:-

ORDER

- (i) Application is allowed.
 - (ii) The Claimants / Respondent Nos.1 and 2 are permitted to withdraw 50% of the deposited amount along with interest on furnishing an undertaking that they will return the amount along with interest, if directed by this Court.
 - (iii) Apportionment be made by the Tribunal as per the Award.
6. In view of that, **Interim Application stands disposed of.**

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- 7. The Appellant is at liberty to file a compilation of documents.
- 8. Stand over to **14th November 2024.**

¹ Civil Appeal No. of 2022 (Arising out of SLP (Civil) No.21077 of 2019) : 10th August 2022 : Supreme Court of India

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9. This Application is not on board. It is taken on board and disposed of.

[S. M. MODAK, J.]