IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 12152 OF 2025
IN
FIRST APPEAL NO. 1251 OF 2023

Chhaya Sunil Muluk And Ors.	…	Applicant/s
In the matter of		
Bajaj Alianz General Insurance Company Ltd	….	Appellant/s
versus		
Chhaya Sunil Muluk And Ors.	….	Respondents

WITH
INTERIM APPLICATION NO. 12178 OF 2025
IN
FIRST APPEAL NO. 1250 OF 2023

Vaishali Govind Raut And Ors.	…	Applicant/s
In the matter of		
Bajaj Alianz General Insurance Company Ltd	….	Appellant/s
versus		
Vaishali Govind Raut And Ors.	….	Respondents

Ms.Vaishnavi M. Gujarthi, Advocate for the Applicants/Claimants.
Mr. Sarthak Diwan, Advocate for Appellant-Insurance Company.

CORAM : R. M. JOSHI, J.

DATE : 11th NOVEMBER, 2025.

P.C. :

1. These applications are for the withdrawal of the amount deposited by the appellant-Insurer in this Court.

2. Learned counsel for the applicants/claimants submits that the applicants are a third party and as such, on the basis of evidence led before the Tribunal, there would be no case made out by the appellant for success in the hearing of the appeals. It is submitted that the applicants/claimants are required to be paid the amount deposited by the appellant/Insurer.

3. Learned counsel for the appellant/insurer vehemently opposed the applications. It is his contention that the evidence led by the claimants is not sufficient to prove the involvement of the vehicle insured with the appellant. He drew attention of the Court to the evidence of the informant who deposes contrary in the testimony recorded before the Tribunal as compared to the FIR given to the police. It is his submission that all these aspects are required to be taken into consideration while permitting the withdrawal of the amount.

4. Before the Tribunal, both the parties led evidence. There is no dispute about the fact that charge-sheet has been filed against the driver of the offending vehicle There is further no denial of the fact that the charge-sheet and FIR was not taken exception to before any Court of Law. Mere lodging of the complaint to the police would not be sufficient to deny the liability of payment of compensation. In the circumstances, the claimants are required to be permitted to withdraw the entire amount subject to conditions. Hence, the following order :

O R D E R

1. The applications stand allowed
2. The amount deposited by the insurer is permitted to be withdrawn by the respondents/claimants. Out of the entire amount, 50% amount is permitted to be withdrawn on undertaking and remaining 50% amount is permitted to be withdrawn on furnishing one solvent surety to the satisfaction of the Tribunal.

The applications stand disposed of in above terms.

(R. M. JOSHI, J.)