

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 378 OF 2017**

Bajaj Allianz General Insurance Co Ltd ...Appellants
Versus
Shyama Bhawatiprasad Dubey & Ors ...Respondents

Mr DS Joshi, *for the Appellants.*

CORAM: G.S. PATEL, J
DATED: 6th June 2017

PC:-

1. Admit.

2. In this case, it will be very difficult to make an order of deposit against the Appellants. The reason is the ground set out as ground (h) of the Appeal Memo. Mr Joshi points out that this may be a case of mistaken identity. The FIR was in respect of an accident involving a tempo. The registration number of the vehicle given in the FIR was MH 05 3770. This was not a vehicle insured by the Appellant. The vehicle ensured by the Appellant is another tempo bearing No. MH 04 CP 1348.

3. I notice that in paragraph 12 of the impugned order, it is noted that one of the witnesses mentioned the tempo that is in fact insured

by the Appellant. However, she was not an eye witness and the version here is that there were two tempos involved in the accident, another inconsistency with the original FIR. The deceased victim was not in either of these tempos but was proceeding on a motorcycle at the relevant time.

4. Call for the R&P by a special messenger within a period of twelve weeks from today.

(G. S. PATEL, J.)