

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Civil Application No. 11726 of 2015

(In First Appeal No. 817 of 2014)

Sadashiv Ambadas Sonawane.

.. Applicant.

versus

United India Insurance Co. Ltd.

& 4 others.

.. Non-applicants.

.....

Mr. S.R. Pande, Advocate, for the applicant.

Mr. S.S. Rathi, Advocate, for non-applicant no.1.

Mr. R.R. Karpe, Advocate, for non-applicant no.2.

Mr. A.R. Vyawahare, Advocate, for non-applicant no.4.

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CORAM : A.M. BADAR, J.

DATE : 2ND DECEMBER 2015

PER COURT :

1. Heard the learned Counsel appearing for the parties.
2. Perused the impugned judgment and award.
3. This is an application for withdrawal of amount of compensation awarded to the applicant because of injuries sustained by him in the vehicular accident caused by collusion of two vehicles. The

applicant was travelling in one of them. The learned Tribunal has apportioned the negligence amongst two vehicles and directed owner, driver and insurer of the vehicle in which the present applicant was travelling, to bear 50 % compensation. Non-applicant no.1 - Insurance Company is permitted to recover the amount under the award from owner of the vehicle.

4. The learned Counsel appearing for non-applicant no.1 / original appellant submits that risk of the applicant who was travelling in the goods vehicle was not at all covered. As such, the applicant could not be permitted to withdraw the amount of compensation.

5. However, considering the fact that the applicant was travelling in the goods vehicle and the learned Tribunal has permitted the Insurance Company to recover the amount under award from the owner, the applicant is permitted to withdraw half of the amount from the amount deposited by non-applicant no.1 - Insurance Company, on condition that he shall furnish his personal undertaking that in the event of allowing the appeal, he shall refund the entire amount to non-applicant no.1 - appellant, within a period of one month.

6. The Civil Application is disposed of in the aforesaid terms.

(A.M. BADAR)
JUDGE

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