

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

Civil Application No. 14080 of 2015
(In Civil Application No. 6583 of 2015)
(In First Appeal Stamp No. 16027 / 2015)

Rajendra s/o. Tulsiram Bharaskar,
 Age : 40 years,
 Occupation : Nil,
 R/o. Ward No.06, Old Ghas Colony,
 Shrirampur,
 District : Ahmednagar.

.. Applicant
 (Original claimant)

versus

The New India Assurance Company Ltd.,
 Through its Manager, D.O. No.1,
 Adalat Road, Aurangabad,
 Mrs. Sharda Ashok Mandvekar,
 Age : 48 years,
 Occupation : Service,
 R/o. Aurangabad,
 & another.

.. Non-applicants
 (No.1 - Appellant in FA)

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Mr. R.B. Dhakane, Advocate, for the applicant.

Mr. M.M. Ambhore, Advocate, for non-applicant no.1.

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CORAM : A.M. BADAR, J.

DATE : 2ND DECEMBER 2015

PER COURT :

1. This is an application for withdrawal of amount under the award by the original claimant.
2. Heard the learned Counsel appearing for the parties and perused the impugned judgment and award.
3. Shri Ambhore, the learned Counsel appearing for non-applicant no.1 - Insurance Company, submits that the applicant was travelling in goods vehicle by paying fare of Rs. 200/- and as such he cannot be permitted to withdraw the amount deposited by the Insurance Company.
4. Perusal of the impugned award shows that the Tribunal has considered this aspect. The applicant was carrying Basch pump of the jeep for repair. He was travelling in the tempo along with that pump for the purpose of repairing it. The learned Tribunal therefore considered that he was not either fare payer passenger or gratuitous passenger of the goods vehicle. In this view of the matter, the applicant needs to be permitted to withdraw half of the amount under the award.
5. Hence, I pass the following order :-

The applicant is permitted to withdraw half of the amount under the award deposited by non-applicant no.1 / appellant - Insurance Company, on furnishing personal undertaking that in the event of allow the appeal, he shall refund the amount withdrawn by him within one month.

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

(A.M. BADAR)
JUDGE

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