

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

CIVIL APPLICATION NO. 5386 OF 2018
IN FAST/4452/2017

KONDIRAM KISAN AVHAD THR HIS NEX FRIEND ASHABAI KONDIRAM
VERSUS
THE NEW INDIA ASSURANCE CO. LTD., THR ITS BRANCH MANAGER,
AHMEDNAGAR AND ORS AVHAD

...
Advocate for Applicant : Mr. N. C. Garud.
Advocate for Respondent No.1 : Mr. S. R. Bodade.
...

CORAM : K.K. SONAWANE, J.

DATED : 22nd JUNE, 2018.

Order :-

1. Heard learned counsel for applicant-original claimant and learned counsel for respondent No.1 Insurance Company. No one else appeared on behalf of respondents No. 2 to 4. Perused the application and relevant documents.
2. Mr. Bodade, learned counsel for respondent No.1 Insurance Company raised objection and submits that the findings of the Tribunal in regard to the compensation awarded to the original claimants are erroneous and unsustainable. The driver of the another vehicle was so negligent, and therefore, alleged accident occurred. The learned counsel put in controversy the quantum of monetary liability imposed on the appellant- Insurance Company.
3. In view of submissions and findings expressed by the learned Tribunal, I find that the applicant-claimant is entitled to get

compensation amount from the owner of the alleged vehicle insured with the present appellant. In regard to the point of controversy relating to quantum of compensation, the interest of the appellant can be protected by allowing the applicant-original claimant for withdrawal of at least 75 % of the amount deposited in this court. It would subserve the purpose for substantial justice. Hence, application deserves to be partly allowed.

4. Therefore, application stands allowed partly. The applicant-original claimant is hereby permitted to withdraw 75 % of the decretal amount deposited in this Court alongwith interest accrued thereon up-till this date, subject to condition of furnishing the undertaking to the effect that the applicant-claimant would refund the amount so withdrawn in case any contingency arises in this appeal. Rest of the balance amount be invested in Fixed Deposit Receipts in any Nationalized Bank for a period of two years or till decision of the first appeal, whichever is earlier with liberty to renew the same if required time and again. The Registry to take requisite steps for disbursement of the amount as mentioned above. The civil application stands disposed of in above terms.

[K. K. SONAWANE]
JUDGE

rrd.