

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

918 CIVIL APPLICATION NO. 4169 OF 2018
IN FAST/16320/2017
MAHAMMAD @ MOHAMMAD MEHTAB SHAIKH
VERSUS
MEHARKHAN SAMADHAN PATHAN AND ORS

...
Advocate for Applicant : Mr. Savita Parmeshwar Kakade(Matkar)
Adv. for Respondent 3 : Mr. A.S. Usmanpurkar
...

CORAM : K.K. SONAWANE, J.

DATED : 19th JUNE, 2018.

Order :-

1. Heard learned counsel for the applicant and respondent No. 3-Insurance Company. Despite service, no one else turned up on behalf of respondents No. 1 and 2.
2. Present application is moved by the applicant seeking permission for withdrawal of amount deposited in this court, pursuant to order of the learned Tribunal. Respondent-Insurance Company has deposited Rs.8,87,781/- in this court towards compensation including statutory amount of Rs. 25,000/-. The learned Tribunal has considered the nature of injuries sustained to the applicant and awarded compensation amount.
3. The appellant-Insurance company raised objection in regard to the quantum of compensation as well findings about the negligence on the part of the applicant, who was driving the another vehicle at the relevant time involved in the accident.

4. Taking into consideration overall aspects of the matter, there is no impediment to allow the applicant/original claimant to withdraw 50% of the amount deposited in this Court towards compensation by the Insurance company. It would sub-serve the purpose in the interest of justice. Hence, the application deserves to be allowed partly.

5. Accordingly, application stands partly allowed. The applicant is hereby allowed to withdraw 50% of the amount deposited in this Court subject to condition that applicant shall furnish undertaking to the effect that he would refund the entire amount so withdrawn in case any contingency arises in the appeal. Rest of the balance decretal amount be invested in any Nationalized Bank for a period of two years or till decision of the appeal, whichever is earlier.

6. Accordingly, application stands allowed in above terms.

[K. K. SONAWANE]
JUDGE

MTK.