

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**933 CIVIL APPLICATION NO. 7590 OF 2018
IN FAST/600/2018**

AFSAR SHA S/O BABU SHA

VERSUS

THE DIV. MANAGAR, RELIANCE GENERAL INSURANCE CO. LTD.,
AND ANOTHER

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Advocate for Applicant : Mr. Jawale Sudam W.
Advocate for Respondent No.1 : Mr. S.G. Chapalgaonkar

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CORAM : K.K. SONAWANE, J.

DATE : 22nd JUNE, 2018

PER COURT :

1. Heard learned counsel Mr. S.W. Jawale for the applicant and learned counsel Mr. S.G. Chapalgaonkar for respondent No.1-Insurance Company.

2. The applicant seeks permission for withdrawal of the amount of compensation deposited by respondent No.1-Insurance Company in this Court.

3. The learned counsel Mr. S.G. Chapalgaonkar

for respondent No.1-Insurance Company raised objection and submits that the offending vehicle shown in the present matter is not at all insured. The fake documents of the vehicle were filed on record. The owner of the vehicle did not produce original policy documents on record. Therefore, there is doubt about the monitory liability of the respondent No.1-Insurance Company. Hence, he requested to reject the application.

4. Admittedly, the applicant sustained 22% permanent physical disability due to vehicular accident. In case it has been held that the appellant-Insurance Company is not liable to indemnify the loss caused to the owner of vehicle for absence of any insurance policy, the monitory liability for making payment of compensation would be shifted on the owner of the offending vehicle. But the applicant has no concern with the point of controversy raised in the appeal on behalf of appellant. Therefore, in view of nature of the subject-matter and objection raised on behalf of respondent – Insurance company, there is no

impediment to allow the applicant to withdraw 50% of the amount deposited in this Court. It would not cause injustice or prejudice to the applicant. Accordingly, the application stands partly allowed.

5. The applicant-original claimant is allowed to withdraw 50% of the total amount of compensation deposited in this Court on behalf of Insurance Company subject to condition that the applicant shall furnish undertaking to refund the entire amount so withdrawn in case of any contingency arise in the appeal. The Registrar [Judicial] shall invest rest of the decretal amount deposited in this Court in F.D.R. for two years or till decision of the Appeal on merit whichever is earlier with liberty to renew the same in future, if required. Accordingly, the application stands disposed of in above terms.

(K.K. SONAWANE, J.)

