

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

**1029 CIVIL APPLICATION NO.3396 OF 2019
IN FAST/14070/2018**

**HAJI SHAKIL BABAMIYA KAZI
VERSUS
UNITED INDIA INSURANCE CO. LTD., THR ITS BRANCH MANANGER
AHMEDNAGAR AND ORS**

...
Advocate for Applicant : Mr. Shaikh Majit S
Advocate for Respondent No.1 : Mr. S. G. Chapalgoankar
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 11th OCTOBER, 2019.

ORDER :

. Present application has been filed by original claimant for withdrawal of amount. Amount of Rs.4,46,196/- as well as statutory amount of Rs.25,000/- was deposited by present respondent No.1- insurance company. The appeal stood disposed of in view of order passed by this Court on 03.08.2018.

2. Learned Advocate appearing for the insurance company submits that the insurance company had filed Civil Application No.7032 of 2018 for getting the delay of 20 days condoned in filing first appeal. Respondent No.3 in the said application was not served and his address

was to be supplied. By the conditional order dated 03.08.2018, two weeks time was granted as condition to take necessary steps. However, those steps were not taken by the insurance company and in view of the conditional order, the appeal itself has been treated as dismissed. Now, the insurance company has filed Civil Application No.3397 of 2019 for getting the delay of 171 days condoned in filing civil application for restoration and recalling of order dated 03.08.2018.

3. Though those applications are still pending, yet, taking into consideration the fact that a competent Court had come to the conclusion and saddled the compensation on the shoulders of the insurance company, definitely, at this stage, case is made out for partial withdrawal of the amount. Hence, applicant is allowed to withdraw amount of Rs.2,75,000/-.

4. Applicant shall file an undertaking within a period of eight weeks that he would make the said amount good, if directed at the time of final disposal of the appeal.

5. Civil Application stands disposed of accordingly.

(SMT. VIBHA KANKANWADI, J.)

SCM