

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

**33 CIVIL APPLICATION NO.6469 OF 2019
IN FAST/2154/2019**

**BABASAHEB TRIMBAK GADEKAR
VERSUS
THE BRANCH MANAGER, NEW INDIA ASSURANCE CO. LTD., ANDORS**

...
**Advocate for Applicant : Shermale K. N.
Adv. S. G. Chapalgaonkar For R/1 in FA**
...

**CORAM : MANGESH S. PATIL, J.
DATE : 28.11.2019**

PC. :-

Heard.

- 2] Issue notice to the respondents.
- 3] The applicant is the original claimant seeking to withdraw the amount deposited by the insurance company pursuant to the impugned award.
- 4] The learned advocate for the insurance company submits that there is debatable issue as regards absence of any valid and effective driving licence by the driver of the offending vehicle. The learned advocate also submits that the insurance company is also seriously challenging the quantum of compensation.
- 5] Assuming that the insurance company which has preferred the appeal if

succeeds in making out defence or breach still it would be open for a direction in the nature of pay and recover.

6] In view of the above and taking into account the assessment of the compensation done by the Tribunal the applicant deserves to be paid the amount subject to usual terms and conditions.

7] The application is allowed. The applicant is allowed to withdraw the amount by furnishing undertaking in the usual terms and conditions.

[MANGESH S. PATIL, J.]

umg/