

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

**1053 CIVIL APPLICATION NO.7525 OF 2019
IN FAST/11280/2019**

**DNYANESHWAR MANIK ANARASE
VERSUS
CHOLAMANDALAM GENERAL INSURANCE CO. LTD., THR ITS BRANCH
MANAGER, AURANGABAD AND**

...
Advocate for Applicant : Mr. Aghav Avinash D
Advocate for Respondent No.1 : Mr. S.G. Chapalgaonkar
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 5th JULY 2019

ORDER :

1. Present application has been filed for withdrawal of the amount. Amount of Rs.6,17,443/- has been deposited as per the directions of this Court.

2. The application has been opposed by respondent No.1 on the ground that the vehicle owned by original respondent No.1 and insured with the Insurance Company has been later on planted. There was delay in lodging the FIR. It was stated that the injured applicant was admitted in various hospitals, however, none of the hospital appears to have sent MLC. However, the applicant has sustained only 15% of permanent disability. There is arithmetical error by the learned member

of the tribunal while computing compensation and therefore, the learned Advocate appearing for respondent No.1 in this application prayed to reject the application and place the appeal itself for final hearing.

3. Without going into the other merits those were canvassed, it can be seen that a competent Court has come to the conclusion that the vehicle owned by original respondent No.1 and insured with respondent No.2 was involved in the accident. Under such circumstance, the joint and several liability has been fastened. The applicant had suffered injuries and therefore, case is made out for partial withdrawal. However, at the same time, taking into consideration the interest of respondent No.1 to be protected, applicant is allowed to withdraw amount of Rs.2,00,000/- subject to giving 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 First Appeal.

4. Civil Application stands disposed of accordingly.

(Smt. Vibha Kankanwadi, J.)

Shubham/