

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

**992 CIVIL APPLICATION NO.7964 OF 2019
IN FA/791/2019**

**SANJAY TRIMBAK NIKAM
VERSUS
THE NEW INDIA ASSURANCE CO. LTD., THR ITS AUTHORIZED
SIGNATORY, AURANGABAD AND AN**

...
Advocate for Applicant : Mr. Shekade Shashikant E
Advocate for Respondent No.1 : Mr. M. M. Ambhore
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 12th JULY 2019

ORDER :

1. Present application has been filed for withdrawal of the amount. Respondent No.1-Insurance Company has deposited amount of Rs.15,36,839/- as per the award and directions of this Court. Learned Advocate appearing for respondent No.1 has strong objection to allow the applicant to withdraw the said amount on the ground that the appeal has been filed in which the Insurance Company has strong case. It is stated that the points involved in the appeal are belated FIR, subsequent involvement of the vehicle insured with the appellant/Insurance Company, collusion between owner, driver and claimant since they are related to each other and also quantum as well as breach of terms of policy.

2. All the points that are tried to be raised in the appeal would be dealt with at the time of final hearing. At this stage a competent Court has come to a conclusion that present respondent No.1 is liable to pay compensation jointly and severally with the original owner and driver. Under such circumstance, case is made out for partial withdrawal of the amount.

3. Applicant is allowed to withdraw amount of Rs.7,00,000/- subject to giving an undertaking that he would make the said amount good, if directed at the time of final disposal of the appeal.

4. Civil Application stands disposed of accordingly.

(Smt. Vibha Kankanwadi, J.)

Shubham/