

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.14042 OF 2019
IN
FIRST APPEAL (ST.) NO.20096 OF 2018
(Balkrishna Dagdu Rashinkar Vs. Bajaj Allianz General Insurance Co.Ltd.,
through its Authorized Signatory, Aurangabad)

Mr. D.A. Bide, Advocate for the applicant
Mr. S.G. Chapalgaonkar, Advocate for respondent No.1

CORAM : MANGESH S. PATIL, J.

DATE : 03.12.2019

PER COURT :

Heard both the sides.

2. The original claimant is seeking to withdraw the amount of compensation deposited by the Insurance Company pursuant to the order passed by the Tribunal and impugned by it in the First Appeal.

3. The learned Advocate for the Insurance Company strongly opposes the application. He submits that there is a serious dispute about involvement of the vehicle in the accident. The FIR has been lodged belatedly. No eye witness has been examined by the Tribunal. Some inferences have been drawn regarding such involvement. The owner himself had stepped into the witness box and specifically denied about the involvement of the vehicle in the accident and as to how he has been

falsely implicated. He, therefore, submits that the applicant cannot be allowed to withdraw the entire amount of compensation and at the most, only 50% of the amount can be allowed to be withdrawn.

4. The learned Advocate for the original claimant submits that the Tribunal has considered all these aspects threadbare and objective material has been referred to in the judgment. It has come to plausible conclusion about the involvement of the vehicle in the accident. Therefore, at this juncture, this Court may not go into all those aspects. It is a matter of record that huge sum has been spent for medical treatment and therefore, applicant may be allowed to withdraw the entire amount of compensation.

5. Needless to state that the question of involvement of the vehicle will have to be gone into while deciding the First Appeal, but the fact remains at this juncture that the Tribunal has apparently scanned the evidence to draw a reasonable inference regarding there being material to show involvement of the vehicle in the accident.

6. Considering all the above mentioned aspects, the applicant is allowed to withdraw 75% of the amount of compensation deposited in this Court by furnishing an undertaking in usual terms. The application is accordingly allowed.

[MANGESH S. PATIL]
JUDGE

