

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

**970 CIVIL APPLICATION NO.1606 OF 2019
IN FA/267/2019**

**RAHUL BHIMRAO BANSODE
VERSUS
THE C.E.O Z.P AURANGABAD AND ANR**

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Advocate for Applicant : Mr. Jawale Sudam W. And Mr. Pravin S Jawale
Advocate for Respondent No.1 : Mr. A. A. Jagatkar

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 12th JULY 2019

ORDER :

1. Present application has been filed for withdrawal of the amount deposited by respondent as per the order of this Court. It is stated that amount of Rs.19,47,337/- has been deposited.

2. Learned Advocate appearing for respondent No.1 has strong objection to allow the applicant to withdraw the amount on the ground that though it is stated that the accident had taken place on 23-07-2003, the claim petition was filed on 21-12-2012 and no explanation for the delay was given. The challenge is also on the point of the non involvement of the vehicle belonging to respondent No.1 in the accident.

3. Since only the prima facie things are required to be considered, it is to be noted that though it appears that respondent No.2 by filing separate written statement had taken contention that the petition is beyond the period of limitation, no issue was framed by the learned tribunal and it appears that the said point was not agitated by the present appellant as well as original respondent No.2-driver.

4. The learned Advocate appearing for respondent No.1 relying on the three Judge Bench decision that is ***Purohit and Company Vs. Khatoonbee and Another, 2017 (5) Mh.L.J. 511***, wherein it is observed on the basis of decision of the Apex Court earlier that it is not as if, it can be open to all and sundry, to approach a Motor Accident Claims Tribunal, to raise a claim for compensation, at any juncture, after the accident had taken place. The individual concerned, must approach the Tribunal within a reasonable time. It is to be noted that in that case, the claimant therein had approached the tribunal after a period of 28 years of the accident. The fact therefore, is required to be considered is that accident had taken place on 02-02-1977 and it appears that the daughter of the applicant who had met with the said accident had expired on 23-02-2005. How far this authority is applicable to the facts of the case in hand is required to be considered at the time of final hearing. At this stage, the competent Court has held both the original

respondents liable to pay compensation to the applicant. Under such circumstance, case is made out for partial withdrawal.

5. Applicant is allowed to withdraw the amount of Rs.7,00,000/- subject to filing 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 first appeal.

6. Civil Application stands disposed of accordingly.

(Smt. Vibha Kankanwadi, J.)

Shubham/