

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

**57 CIVIL APPLICATION NO.14046 OF 2019
IN FAST/24988/2019**

**DATTA SARJERAO MULEY
VERSUS
DADARAO RAMBHAU SHINDE AND ORS**

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**Advocate for Applicant : Mayure Pramod C
Adv.S.S.Dargad h/f S. G. Chapalgaonkar For R/3**

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**CORAM : MANGESH S. PATIL, J.
DATE : 04.12.2019**

PC. :-

Heard both the sides.

- 2] In this injury claim the claimant is seeking withdrawal of the amount of compensation deposited by the appellant insurance company.
- 3] The learned advocate for the insurance company submits that there is serious breach of the terms and conditions of the Insurance Contract in as much as the vehicle was being driven for hire. He would further submit that even assessment of compensation is on higher side.
- 4] As far as the breach is concerned, obviously it would be a matter of pay and recover.
- 5] So far as assessment of the compensation is concerned, appellant contreras resulted in 100% loss of earning capacity.
- 6] Considering all the aforementioned aspects, the application is allowed. The applicant is allowed to withdraw 75% of the amount of compensation deposited in this Court subject to furnishing usual undertaking. The learned

advocate for the applicant claimant requests that the amount of compensation be transmitted to the Tribunal to make it convenient for the claimant to withdraw it.

7] The request is accepted. The Registry to transmit the amount deposited by the insurance company in this Court to the Tribunal concerned which shall allow the claimant to withdraw it in accordance with this order. Undertaking be furnished before the Tribunal.

[MANGESH S. PATIL, J.]

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