

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 CIVIL APPLICATION NO.14263 OF 2019
IN FA/2884/2015

VIJAY BHASKAR PATIL
VERSUS
UNITED INDIA INSURANCE COMPANY LTD.

...

Mr.V.B. Patil, Advocate for applicant.
Mr.S.S. Rathi, Advocate for respondent no.1.

...

CORAM: V.L. ACHLIYA,J.
DATE : 12.12.2019

ORAL ORDER:

The applicant-original claimant moved this application seeking withdrawal of amount deposited by the appellant-insurance company.

2. Heard learned counsel for the applicant-claimant and Advocate representing the appellant-insurance company.

3. Learned counsel for the appellant – insurance company opposed the application with contention that the appellant – insurance company is not liable to pay the compensation to the claimant for the reason that the cheque issued by the claimant towards premium was dishonoured. On receipt of information regarding dishonour of cheque,

the insurance company has immediately intimated cancellation of policy. It is submitted that in absence of consideration being paid no concluded contract of insurance even taken place between respondent no.1 and respondent no.2 so as to indemnify the respondent no.1.

4. On the other hand, learned counsel for the applicant – claimant submits that though the appellant – insurance company has taken stand of dishonour of cheque issued towards payment of premium of insurance policy but no evidence adduced in the case to prove their case.

5. On due consideration of submissions advanced in the light of challenge raised and findings recorded by the Tribunal, I am of the view that the following order would meet the ends of justice :-

ORDER

(i) The applicant is permitted to withdraw the sum of Rs.1,50,000/- on furnishing undertaking to the satisfaction of Registrar that in the event award is set aside or modified, the applicant shall refund the

amount within four weeks from the date of passing of order.

(ii) After making the payment of Rs.1,50,000/- to the applicant, the balance amount be invested in fixed deposit with any Nationalized Bank initially for the period of 14 months with standing instructions to renew the same till further orders from the Court.

(iii) The interest accrued over the amount invested be directly credited in the Saving Account of applicant after every three months.

(iv) The order of withdrawal of amount and payment of interest shall be subject to final outcome of appeal.

(vi) The Civil Application is disposed of in above terms.

[V.L. ACHLIYA]
JUDGE

SGA