

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

**971 CIVIL APPLICATION NO.2479 OF 2019
IN FA/3350/2018**

**KISAN ASARAM MORE
VERSUS
APPASAHEB DHONDIBA KORDE AND ORS**

...
Advocate for Applicant : Ms. Kingaonkar Pallavi S.
Advocate for Respondent No.3 : Mr. S. G. Chapalgoankar
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 12th JULY 2019

ORDER :

1. Present application has been filed for withdrawal of the amount. Amount of Rs.14,66,293/- has been deposited by the Insurance Company. Respondent No.3-Insurance Company has strong objection to allow withdrawal of the amount on the ground that the injured applicant was travelling from the trolley, which was not insured with it, only the tractor was insured with it. So also, the driver had no valid and effective driving license to drive the class of vehicle, which he was driving. It is to be noted that taking into consideration the fact that the Insurance Company has proved breach of terms of policy, order has been already passed by the learned tribunal to pay and recover from the owner. Therefore, the interest of the Insurance Company is protected.

Under such circumstance, case is definitely made out for partial withdrawal of the amount.

2. Applicant is allowed to withdraw amount of Rs.7,00,000/- subject to giving 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.

3. Civil Application stands disposed of accordingly.

(Smt. Vibha Kankanwadi, J.)

Shubham/