

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 2674 OF 2019
IN
FIRST APPEAL (ST.) NO. 31495 OF 2016**

Ashish Vinayak PetakarApplicant

In the matter between :-

Iffco Tokio General Insurance Co. Ltd.Appellant

V/s.

Ashish Vinayak Petakar and anr.Respondents

Ms. Varsha Chavan for the applicant in CAF/2382/2017 and CAF/2383/2017 and FAST/31495/2016 and for the respondent in CAF/2674/2019.

Mr. Pritesh Bohade for respondent no.1 and for the applicant in CAF/2674/2019.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 02nd AUGUST, 2019**

P.C.:-

. The applicant herein has sought withdrawal of the compensation deposited by the respondent – insurance company in compliance with the impugned judgment and award dated 26/02/2016 passed by the MACT, Nashik in MACP No.351/2008.

2. By the impugned judgment and award, the Claims Tribunal has directed the appellant – insurance company to pay to the original claimant an amount of Rs.3,18,800/- with interest @ 9% p.a. from the

date of petition till payment of the entire amount into the Court.

3. The respondent – insurance company has not challenged the quantum of compensation but has challenged the liability to indemnify the insured for the reason that the driver was not holding a valid and effective driving license.

4. The dispute is basically between the respondent – insurance company and the insured. Hence, in my considered view, there is no reason to deprive the applicant – original claimant of the compensation as awarded by the Claims Tribunal.

5. Under the circumstances, the civil application is allowed. The applicant – original claimant is allowed to withdraw the compensation amount along with interest accrued thereon. The withdrawal shall be subject to the final outcome of the appeal. The applicant – original claimant shall give an undertaking that he shall refund the compensation along with interest in the event it is held that the respondent – insurance company is not liable to indemnify the insured.

6. Civil Application No.2674/2019 stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

Preeti
H.
Jayani

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Preeti H.
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