

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

**CIVIL APPLICATION NO.4466 OF 2020
IN
FIRST APPEAL STAMP NO.18235 OF 2019**

Gaurav Rajesh Kale

.. APPLICANT

Versus

Nitin Dnyandev Tathe & Ors.

.. RESPONDENTS

...

Adv. Mr.PC.Mayure for applicant

Adv.Swapnil Dargad h/f S.G.Chapalgaonkar for respondent no.3

....

CORAM : MANGESH S. PATIL, J.

DATE : 23.07.2020

PC. :-

Heard both the sides.

2] The learned advocate for the applicant submits that it is an injury claim. The claimant is seriously injured and has been awarded compensation and may be allowed to reap the benefits of the award and allowed to withdraw the amount of compensation deposited by the insurance company in this Court.

3] The learned advocate for the insurance company strongly opposes the application. He submits that there is a serious dispute as to the involvement of the motor cycle in question. Initially the father of the claimant had given a different motor cycle number and it is after a lapse of 22 days that a number of the present motor cycle was disclosed. Therefore, the appeal will have to

be heard finally and no interim relief can be given to the applicant-claimant.

4] After having gone through the reasons given by the Tribunal and taking into account the fact that a charge sheet has been filed against the owner of the motor cycle involved in the accident coupled with the fact that the owner of the motor cycle has not disputed its involvement but has rather taken a defence of there being a contributory negligence by the applicant, he deserves to be paid atleast a portion of the amount of compensation since the appeal is not likely to be heard finally in the near future.

5] The application is partly allowed. The applicant is allowed to withdraw amount of Rs.1,00,000/- (Rs.One lakh only) by furnishing an undertaking that he would deposit the amount back in the Court as and when directed in future.

[MANGESH S. PATIL, J.]

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