

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

**944 CIVIL APPLICATION NO. 2647 OF 2021
IN FAST/29515/2019**

**GANESH BHAGUJI HANWATE
VS
DIVISIONAL MANAGER, NATIONAL INSURANCE CO. LTD.
AURANGABAD AND OTHERS**

Mr. Pramod C. Mayure, Advocate for the applicant
Mr. M. M. Ambhore, Advocate for respondent No.1

CORAM : N. J. JAMADAR, J.

DATE : 05-03-2021

P. C.

. This is an application for withdrawal of amount deposited by respondent No.1-insurer pursuant to the judgment and award dated 18-04-2019 passed in MACP No.455/2018 by MACT, Aurangabad.

2. Learned counsel for the respondent-insurer resists the prayer for withdrawal on the ground that there was breach of condition of insurance. There was no valid permit, nor the driver had a valid license. Therefore, the insurer-appellant has a strong case.

3. Learned counsel for the applicant urged that all the points are duly considered by the tribunal. The applicant had

suffered 80% disability. The applicant is in dire need of amount of compensation deposited by the respondent No.1-insurer to meet the necessities of life.

4. Perused the impugned judgment and award.

5. The submissions advanced on behalf of the respondent No.1-insurer as regards the breach of condition of insurance can be legitimately considered at the time of final hearing and disposal of the appeal.

6. Having regard to the disability sustained by the applicant, it would be expedient to allow the applicant to withdraw 75% of the amount of compensation deposited by the respondent No.1-insurer. Hence, the following order.

ORDER

i. The application stands partly allowed.

ii. The applicant is entitled to withdraw 50% of amount deposited by the respondent No.1-insurer, on furnishing an undertaking to the satisfaction of the learned Registrar (Judicial) of this court and further 25% of amount on furnishing solvent security/surety to the satisfaction of the learned Registrar (Judicial) alongwith interest accrued thereon.

(3)

ca2647.21

ii. Balance 25% amount be invested in a fixed deposit.

iii. The application stands disposed of.

[N. J. JAMADAR, J.]

VishalK/ca2647.21