

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.1962 OF 2020 IN
CIVIL APPLICATION NO.11293 OF 2019 IN
FIRST APPEAL STAMP NO.28825 OF 2019

Ashok Vasudeo Naikwade ... **APPLICANT**

VERSUS

Ashok Tours and Travels & ors. ... **RESPONDENTS**

.....
Shri G.S. Rane, Advocate for applicant
Shri M.M. Ambhore, Advocate for respondent No.5
.....

CORAM : R. G. AVACHAT, J.

DATE : 4th MARCH, 2021.

ORDER :

This is an application for withdrawal of the amount of compensation deposited by the respondent Insurance Company in this Court. The applicant met with a vehicular accident. He suffered multiple injuries and permanent disability. He, therefore, preferred Motor Accident Claim Petition against the owner of Indica Car bearing Registration No.MH-14/CX-4113, Driver and Insurance Company of the said vehicle. The petition was allowed, directing the respondents in the claim petition to pay jointly and severally a

sum of Rs.12,36,306/- together with interest @ 9% p.a. from the date of petition till the date of payment of the amount.

2. The respondent Insurance Company preferred the appeal contending that the vehicle to which it had granted insurance cover was not at all involved in the accident. The applicant lodged police report of the accident 40 days after the alleged accident. There is inconsistency in the evidence of the witnesses examined in the case. The appellant Insurance Company has a very good case in appeal. The learned counsel, therefore, urged for rejection of the application.

3. Learned counsel for the applicant would, on the other hand, submit that the award is consistent with the evidence let in. The investigating officer has categorically stated involvement of the Indica Car. Applicant was bed ridden for several days. There was, therefore, delay in reporting to the police.

4. I have considered the rival submissions, also perused the award. There appears to be some substance in the contentions made by learned counsel for the respondent Insurance Company. Balance is, however, required to be struck, since the applicant has suffered multiple injuries, permanent disability and as a result thereof, loss of income due to the accident. Purpose would be served if the applicant

is allowed to withdraw 40% of the amount under the award along with interest accrued thereon, on condition of the applicant furnishing a Bank guarantee of a nationalized Bank and an undertaking to pay back the amount in the event the appeal goes against him and the Court directs to pay back the amount. The application is thus allowed as under :

5. 40% of the amount of the award along with interest accrued thereon till date be paid to the applicant on his furnishing a Bank guarantee of any nationalized Bank in the sum equal to the amount to be paid to him. The applicant shall also furnish an undertaking as stated above and to the satisfaction of the Registrar (Judicial) of this Court as well.

6. Civil Application is disposed of.

(R. G. AVACHAT)
JUDGE

fmp/-