

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3248 OF 2021
IN
FIRST APPEAL ST.NO. 459 OF 2020

Sandip Popat Bhalerao

..Applicant

Versus

The Branch Manager,
The New India Insurance Co.Ltd.,
Ahmednagar and anr.

..Respondents

Mr Y.K. Shaikh, Advocate for applicant
Mr S.G. Chapalgaonkar, Advocate for respondent no.1

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 1st JULY, 2021

PER COURT :

1. It is an application for withdrawal of amount moved by the applicant/original claimant.
2. Heard Mr Shaikh, learned Counsel for the applicant/original claimant and Mr Chapalgaonkar, learned Counsel appearing respondent no.1/Insurance Company.
3. Perused the impugned judgment and award passed in M.A.C.P. No. 168/2016 by Member, M.A.C.T., Shirampur.
4. Mr Chapalgaonkar, learned Counsel for respondent no.1 strongly opposed to allow this application mainly on the ground of false involvement of the vehicle. He points out that alleged incident took place on 27.2.2016. The claimant was riding the vehicle and another person was pillion rider. The F.I.R. about alleged incident came to be registered

on 6.4.2016 by the pillion rider who has not sustained any kind of injury. The F.I.R. has been lodged after causing delay of 45 days. No explanation is forthcoming while lodging of F.I.R. Even though, injured claimant came to be discharged on 2.3.2016, no F.I.R. was filed immediately with the police. He further pointed out that there is discrepancy in the version of claimant and the pillion rider regarding very occurrence of the accident. By taking help of abovesaid material, he submits that application needs to be rejected.

5. On the other hand, learned Counsel Mr Shaikh for the applicant/original claimant submits that it is genuine injury claim. The Insurance Company has not adduced any evidence in support of its defence by way of rebuttal. Therefore, he prays for entire withdrawal of amount deposited by the Insurance Company.

6. I have considered the submissions of learned Counsel for both the sides. Perused the impugned judgment and award passed by the Member, M.A.C.T., Shrirampur in M.A.C.P. No. 168/2016.

7. Though important and arguable points are raised by learned Counsel for respondent No. 1, it would not be appropriate to reject the prayer for withdrawal of the amount. The applicant seems to have sustained injuries and he was hospitalised. Having considered the submissions of both the sides and after perusing the impugned judgment and award, I am convinced to grant withdrawal of 50% of the amount of compensation deposited by the Insurance Company in this Court on usual undertaking as per practice. Hence, the following order :

ORDER

(i) The applicant is permitted to withdraw 50% of the amount of compensation deposited by the Insurance Company/respondent no.1 in this Court, on furnishing usual undertaking with the Registrar (Judicial) of this Court.

(ii) Civil Application for withdrawal of amount moved by the applicant is allowed accordingly.

[SHRIKANT D. KULKARNI, J.]

mta