

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

**CIVIL APPLICATION NO. 7451 OF 2020
IN
FIRST APPEAL NO. 1635 OF 2020**

Shrihari Radhuji Argade	... Applicant
Versus	
Sunil Shyamlal Sharma and another	... Respondents

....

Mr. A. U. Chandel, Advocate for the applicant
Mr. A. B. Kadethankar, Advocate for respondent No.2

....

CORAM : R. G. AVACHAT, J.

DATED : 24th FEBRUARY, 2021

PER COURT :-

1. Heard.

2. The applicant is 75 plus. He met with vehicular accident. The tribunal after considering the rival claims, has granted him compensation amounting to Rs.2,92,000/- together with 6% interest thereon from the date of petition to the date of recovery of the said amount. The respondent insurance company had come with a defence of there being no contract of insurance of the vehicle met with an accident since the cheque issued by the insurer towards payment of insurance was dishonored and the insurance company

therefore repudiated the contract and intimated the same to the insurer. The tribunal has further found that there were no pleadings in the written statement in support of this defence.

3. Learned Advocate for the insurance company submits that the company was permitted to lead evidence and the factum of repudiation of the contract of insurance has been proved before the tribunal.

4. It is not desirable to make any observations in this regard, since the appeal is to be heard on merits. Considering the age of the applicant and the amount involved therein, the application is allowed. Out of the total amount deposited, the applicant is permitted to withdraw 75% of the amount on condition that the applicant shall furnish solvent surety to that extent.

[R. G. AVACHAT, J.]

SMS