

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

**977 CIVIL APPLICATION NO.2442 OF 2021
IN FA/608/2020**

VIKI ASHOK GUDEKAR
VERSUS
THE NEW INDIA ASSURANCE CO. LTD., THR ITS DIV. MANAGER,
AURANGABAD AND OTHERS

...
Advocate for Applicant : Shri Mahesh R Sonawane
Advocate for Respondent No.1 : Shri Dananjay P. Deshpande

...
CORAM : M. G. SEWLIKAR, J.
Date: February 17, 2021
...

PER COURT :-

1. Heard Shri M.R.Sonawane, learned counsel for the applicant and Shri D.P.Deshpande, learned counsel for the respondent No.1. On perusal of the Judgment under challenge, it is seen that 30% disability was assessed by the Doctor. Learned Tribunal held the disability to be 10%.
2. Learned counsel for respondent No.1 submitted that driver of offending vehicle did not have licence and this fact was not brought to the notice of the Tribunal during the pendency of the matter. In other matters, this fact was brought to the notice of the Tribunal and therefore, in those matter, the Tribunal exonerated the Insurance Company. Even order of pay and recover was not passed. He, therefore, opposed the application for withdrawal of amount.
3. Having considered the submissions of both the sides, I am inclined to allow the application for withdrawal to the extent of 30% of the amount deposited on furnishing undertaking on usual terms.

(M. G. SEWLIKAR, J.)