

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

**CIVIL APPLICATION NO.12729 OF 2019
IN
FIRST APPEAL NO.1370 OF 2019**

Govind s/o. Parshuram Dukare ..Applicant

Vs.

National Insurance Co. Ltd.
and ors. ..Respondents

Mr.R.P.Phatke, Advocate for applicant
Mr.A.B.Gatne, Advocate for respondent no.1

**CORAM : R.G. AVACHAT, J.
DATE : SEPTEMBER 02, 2021**

ORDER :-

Heard. Perused the application and the impugned award.

2. Learned counsel for the appellant – insurance company submits that the vehicle has been planted. He took me through the evidence of the relevant witness, to submit as to how the vehicle has been falsely implicated in the accident in question. According to him, when the cleaner's side of the truck hit to the injured, his right leg is expected to have suffered injuries. The case is other way round. It is the left leg of the claimant that has suffered injuries. Regarding the evidence of eye witness – Mahesh, learned counsel would submit that

his statement was recorded a month after the alleged accident. According to this witness, he had been to the police to report about the accident, however, the police turned him away. The spot of accident is said to be on the road opposite the police station.

3. It appears that the appellant – insurance company has a good case in appeal. The fact, however, cannot be lost sight of that the injured has spent Rs.1,70,000/- for medical treatment. The eye-witness Mahesh has referred to his police statement (Exh.44). The same has not been traversed in cross-examination. These are prima facie observations.

4. In the fitness of things, the applicant/claimant is permitted to withdraw Rs.2,00,000/- (Rupees Two Lakhs) deposited in this Court, on furnishing usual undertaking to the satisfaction of learned Registrar (Judicial) of this Court. The application stands disposed of accordingly.

[R.G. AVACHAT, J.]

KBP