

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

66 CIVIL APPLICATION NO.12369 OF 2022
IN FA/1225/2022

ZABIR KHAN S/O MAHEBOOB AHMED KHAN
VERSUS
SHRIRAM GENERAL INSURANCE CO. LTD., THR ITS
MANAGER/AUTHORISED SIGNATORY, AURANGABAD AND ANR

...
Advocate for Applicant : Mr. Mukhedkar Amit Arunkumar
Advocate for respondent No.1 : Mr. S. S. Rathi
....

**CORAM : S. G. DIGE, J.
DATE : 29.08.2022**

PER COURT :-

Heard learned counsel for the applicant and learned
counsel for the respondents.

2. Learned counsel for the applicant submits that respondent has preferred appeal against the Judgment and award passed by Member Motor Accident Claim Tribunal Nanded. Respondent has deposited entire award amount before this Court. In the accident, applicant has got 34% disability due to which he is unable to do any work, he requires the amount for his daily business. Hence requested to allow the application.

3. It is contention of the learned counsel for the respondent that respondent has challenged the impugned order on various grounds, one of the ground is false involvement of the vehicle. There is delay of one month for filing the first information report. Accident was occurred at night time, in spite of that offending vehicle is shown as vehicle involved in the accident, which is disputed by this respondents. If the applicants are allowed to withdraw the amount and respondents are succeed in the appeal, it would be difficult for the respondents to recover the amount. Hence requested to dismiss the application.

4. I have herd both the learned counsel.

5. Applicant has suffered 34% disability in the accident. He needs the amount for his daily business. The issue raised by the respondent can be considered at the time of final hearing of the appeal. Hence I pass the following order.

ORDER

- (i) Application is allowed.
- (ii) Applicant is permitted to withdraw 25% amount along with accrued interest thereon out of deposited amount by the respondent on furnishing undertaking.

- (iii) Applicant is permitted to withdraw 25% amount along with accrued interest thereon out of deposited amount on furnishing solvent surety.
- (iv) Civil Application is disposed of.

**(S.G. DIGE,)
JUDGE**

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