IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

**21 CIVIL APPLICATION NO.10154 OF 2021**
IN FA/13/2021

SOHIL SHABIR KHATIK
*VERSUS*
RELIANCE GENERAL INSURANCE CO. LTD., THROUGH ITS AUTHORIZED OFFICIAL, AURANGABAD AND OTHERS

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Advocate for Applicant : Mr. Madhav M. Bhokarikar.
Advocate for Respondent No.1: Mr. A. S. Usmanpurkar.
Advocate for Respondent No.2: Mr. S. K. Chavan.
Advocate for Respondent No.3: Ms. Savita N. Solunke. (Absent).

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CORAM : **SHRIKANT D. KULKARNI, J.**
DATE : 21st March, 2022.

**P.C.:**

. It is an application for withdrawal of amount moved by the applicant / original claimant.

2 Heard Mr. Bhokarikar, learned counsel for the applicant, Mr.Usmanpurkar, learned counsel for respondent No.1 and Mr.Chavan, learned counsel for respondent No.2. Mrs. Solunke, learned counsel for respondent No.3 remained absent when the matter is called out.

3 Mr. Usmanpurkar, learned counsel for appellant/respondent No.1 strongly opposed to allow this application for withdrawal of amount. He submitted that the insurance company has filed this appeal mainly on the ground that the insurance company has cancelled its insurance

policy pertaining to vehicle involved in the accident much prior to the accident. There was no liability on the part of the appellant/insurance company. Even then the Tribunal has awarded the compensation and fastened the liability to pay the compensation on the appellant/insurance company. It is against the provisions of law. He further pointed out that the Tribunal has awarded the interest at the rate of 9% per annum from the date of claim till realization of the amount. He submitted that the claimant has caused the delay in trial and as such the claim was protracted. It was the negligence on the part of the claimant. He is not entitled to get interest for such a protracted trial for nine years.

4 Mr. Bhokarikar, learned counsel for claimant submitted that it is injury claim. The claimant has proved before the Tribunal that at the time of accident the vehicle involved in the accident was insured with the insurance company. The Tribunal has rightly fastened the liability on the insurance company jointly and severally with the owner. Mr.Chavan, learned counsel for respondent No.2 made similar submissions.

5 The defence raised by the insurance company would be certainly taken into consideration at the time of final hearing of the appeal. It is an injury claim. The claimant is in need of money. By

considering this aspect and looking to the defence raised by the insurance company, I am of the view that if 50% of the amount of compensation is allowed to be withdrawn by the claimant, it would meet the ends of justice and it may also protect the rights and interest of the appellant. Hence, the following order is passed.

## O R D E R

I. The application is hereby allowed.

II. The applicant / claimant is permitted to withdraw 50% of the amount of compensation with accrued interest thereon on furnishing usual undertaking with the Registrar (Judicial) of this Court.

III. The civil application is disposed of accordingly.

IV. The appeal to proceed further for final hearing and it be listed as per its turn.

**[ SHRIKANT D. KULKARNI, J. ]**

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