

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

CIVIL APPLICATION NO.13708 OF 2016 IN FA/2338/2016

**BALAJI BHALCHANDRA MANE
VERSUS
UNITED INDIA INSURANCE CO. LTD. AND OTHERS**

....

Mr. Fayaz K. Patel, Advocate h/f Mr. A.T. Jagtap, Advocate for the Applicant

Mr. S.G. Chapalgaonkar, Advocate for Respondent No.1

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 14th JANUARY, 2022

PER COURT:-

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

2. Heard Mr. Fayaz Patel holding for Mr. A.T. Jagtap, learned counsel for the applicant / original claimant and Mr. S.G. Chapalgaonkar, learned counsel for respondent no.1 / United India Insurance Company Ltd.

3. Mr. Chapalgaonkar, learned counsel for respondent no.1 / United India Insurance Company Ltd. submits that there are two vehicles involved in the accident i.e. tempo truck and motorcycle. The claimant was a pillion rider on the motorcycle insured with

United India Insurance Company Ltd. and the tempo truck was insured with Shriram General Insurance Company Ltd. He submits that the entire allegations of rash and negligent driving are against the driver of tempo truck bearing registration No. MH-24/F-4939, which was insured with Shriram General Insurance Company Ltd. He further submits that the Shriram General Insurance Company Ltd. has deposited 50% amount of the compensation in the Tribunal and the applicant has withdrawn the same in the year 2016. He further submits that the appellant / United India Insurance Company Ltd. has deposited its 50% share i.e. Rs. 2,88,000/- in this Court. He invited my attention to the ground raised in the appeal memo and submits that in view of the grounds raised in the appeal memo, at the most, the applicant may be allowed to withdraw 25% of the amount deposited by the appellant / United India Insurance Company Ltd. with this Registry.

4. Mr. Fayaz Patel holding for Mr. A.T. Jagtap, learned counsel for the applicant submits that the applicant is entitled to get 100% amount deposited by the appellant / United India Insurance Company Ltd. in this Court.

5. Having regard to the submissions of the learned counsel for both the sides, I am of the view that looking to the grounds raised in the appeal, it would be just and proper to allow the applicant to withdraw 25% of the amount deposited by the appellant / United India Insurance Company Ltd. with the Registry. It would take care and interest of the appellant involved in the appeal, which would meet the ends of justice. The applicant / original claimant has already withdrawn 50% of the amount deposited by Shriram General Insurance Company Ltd. with the Tribunal. In addition to that, he would get 25% of the amount deposited by this appellant. As such, I proceed to pass the following order.

ORDER

- (i) The application for withdrawal of amount is hereby allowed.
- (ii) The applicant is permitted to withdraw 25% of the amount of compensation with accrued interest thereon deposited by the appellant / United India Insurance Company Ltd. with this Court on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

(iii) Remaining 75% of the amount of compensation with accrued interest thereon shall be invested in the fixed deposit with any nationalized Bank initially for a period of two years with clause of renewal.

(iv) Civil application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane