

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST) NO.16833 OF 2018

**THE IFFCO TOKIO GENERAL INSURANCE)
CO.LTD.)...APPELLANT**

V/s.

SANJAY UTTAM SONAVANE AND OTHERS)...RESPONDENTS

WITH

CIVIL APPLICATION NO.249 OF 2021

IN

FIRST APPEAL (ST) NO.16833 OF 2018

SANJAY UTTAM SONAVANE)...APPLICANT

V/s.

**THE IFFCO TOKIO GENERAL INSURANCE)
CO.LTD.)...RESPONDENT**

Mr.Rajesh Kanojia a/w. Ms.Nitika Singh a/w. Ms.Sandhya Singh
i/by. Res Juris, Advocate for the Appellant.

Mr.N.C.Sheth, Advocate for Respondent No.1.

CORAM : BHARATI DANGRE, J.

DATE : 6th APRIL 2022

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P.C. :

1 Heard the learned counsel for the appellant and the learned counsel for the respondent. The appeal is filed against the judgment and order delivered by MACT Mumbai in MACP No.1004 of 2009, thereby directing the compensation to be paid to the respondent / claimant to the tune of Rs.6,59,600/- along with interest at the rate of 7.5% per annum. The opposite parties and Insurance company are jointly or severally responsible for effecting the payment.

2 The counsel for the appellant submits that the impugned judgment is flawed since it was not a case of motor accident but an attempt to murder and the incident resulted into registration of offence by invoking Section 307 of the Indian Penal Code. It is submitted by the opposite party that it is the criminal intent to commit murder which resulted into injuries.

3 The learned counsel for the respondent/claimant, however, submits that the opponent no.2 has been acquitted of the charge

of Section 307 of the IPC and in any case, since he has suffered injuries in the accident, he is entitled for compensation. He seeks withdrawal of the compensation by filing Civil Application No.249 of 2021. The said prayer is strenuously opposed by the learned counsel for the appellant – Insurance company by submitting that the applicant is still working on the post of Police Constable and therefore, the withdrawal shall be deferred till the final hearing of the appeal.

4 On perusal of the application, I am of the considered opinion that the applicant is waiting for compensation for last ten years since the said petition was filed in the year 2009 and decided in the year 2017. Interest of the parties would be better served if the applicant is permitted to withdraw 50% of the amount that has been deposited before the Tribunal along with the interest accruing on the said amount. The said withdrawal shall be permitted subject to an undertaking being submitted by the applicant to the effect that he shall be liable for remitting

back the amount to the Insurance Company, in case the appeal is decided in their favour.

5 Since the appeal involves a short point, subject to appellant filing a private paperbook/compilation of documents within six weeks from today, the appeal shall be taken up for final hearing.

6 Let the appeal be listed for Directions on **27th June 2022** so that a date for final hearing can be fixed.

7 Civil Application No.249 of 2021 stands disposed of.

(BHARATI DANGRE, J.)