

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

929 CIVIL APPLICATION NO. 1257 OF 2023
IN FIRST APPEAL (ST) NO. 26610 OF 2022

MANGALBAI ANIL KHOLWAL
VERSUS
NEW INDIA ASSURANCE CO LTD

...
Mr. P.V. Balkhande – Advocate for Applicant
Mr. A.S. Usmanpurkar – Advocate for Respondent No.1
....

CORAM : SANDIPKUMAR C. MORE, J.
DATE : 16th June, 2023

PER COURT :

1. Heard rival submissions.
2. The applicant is seeking withdrawal of the entire amount of compensation, which has been deposited by the appellant – Insurance Company alongwith the interest accrued thereon.
3. Learned Counsel for the appellant – Insurance Company strongly opposed the application on the ground that, the F.I.R. was initially lodged against unknown vehicle and after 74 days the offending vehicle was detected. According to him, this fact clearly indicates the collusion between owner and driver of the

said vehicle. However, the evidence of Investigating Office in respect of the criminal proceeding arising out of the accident indicates that, he had filed the charge-sheet against the driver of said vehicle.

4. The learned Counsel for the Insurance Company pointed out that, the cross-examination of said Investigating Officer clearly indicates that, he did not adduce any evidence as to how he came to know about the involvement of the offending vehicle in the accident. However, this officer in his chief-examination has proved the contents of charge-sheet filed by him and therefore, considering the submissions of learned Counsel for the Insurance Company certain amount of compensation can be retained to safeguard the interest of appellant – Insurance Company.

5. As such, the applicant is permitted to withdraw 50% of the deposited amount of compensation alongwith the proportionate interest accrued thereon till date on furnishing usual undertaking to the satisfaction of the learned Registrar (Judicial) of this Court.

6. The remaining amount be kept in F.D.R. in any nationalized Bank on yearly renewal basis till final disposal of this appeal.

7. Civil application is accordingly disposed of.

[SANDIPKUMAR C. MORE]
JUDGE