

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

**36 CIVIL APPLICATION NO.5968 OF 2021
IN FA/2372/2020**

**SHANKAR S/O EKNATH SURYAWANSHI
VERSUS
WAHED SALEEM SAUDAGAR AND ANOTHER
...**

**Advocate for Applicant : Mr. Patel Fayaz K.
Advocate for Respondent No.2 : Mr. V. N. Upadhe
...**

CORAM : SANDIPKUMAR C. MORE, J.

DATE : 23.01.2023

PER COURT :

Heard rival submissions. The applicant is seeking withdrawal of entire compensation amount along with the interest which shall be deposited by respondent No.2 -Insurance Company, who has filed this appeal. The learned counsel for the Insurance Company strongly opposed the application on the ground that the alleged offending vehicle was falsely involved in the accident. Though there is some mistake on the part of pillion rider in stating the registration number of vehicle involved in the accident, but the learned Tribunal has come up with the finding about the involvement of that vehicle on the basis of certain evidence on record. Further it appears that the Insurance Company also did not examine the owner of said vehicle, who could have clarified the aspect of its non-involvement.

2. In view of the same and at this juncture, the applicant is permitted to withdraw 75% of the deposited amount along with the proportionate interest thereon, i.e. 50% on usual undertaking and 25% on furnishing solvent surety / security. The remaining amount be invested in F.D.R. in any Nationalised Bank on yearly renewal basis till final disposal of this appeal.

3. The application is accordingly disposed of.

(SANDIPKUMAR C. MORE)
JUDGE

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shp/-