

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

**925 CIVIL APPLICATION NO.17159 OF 2022
IN FAST/29059/2022**

**HASINA ASHFAK SHAIKH
VERSUS
THE NEW INDIA ASSURANCE COMPANY LIMITED THROUGH ITS
DIVISIONAL MANAGER**

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**Advocate for Applicant : Mr. Mayure Pramod C.
Advocate for Respondent No.1 : Mr. M. R. Deshmukh**

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CORAM : SANDIPKUMAR C. MORE, J.

DATE : 22.02.2023

PER COURT :

Heard rival submissions. The applicant i.e. the original claimant is seeking withdrawal of compensation which has been deposited by the appellant -Insurance Company along with the interest . The learned counsel for the Insurance Company strongly opposed the application on the ground that the tempo which was shown to be involved in the accident in this matter and already make with an accident just half an hour before, at different place. Further, the survey of the tempo was also carried out after the accident and therefore it is highly difficult to believe that the said tempo again involved in the subsequent accident that took place only half an hour after. It is therefore clearly inferred that it was collusion between the

claimant and driver as well as owner of the offending vehicle.

2. On the contrary, the learned counsel for the applicant -claimant submits that the driver and owner of the said tempo in their respective written statements did not dispute the involvement of said tempo, they only claim that the motor cycle rider was negligent. Thus, the learned counsel for the applicant pointed out that the involvement of tempo in the accident was not disputed and to disprove the same the Insurance Company did not examine any witness either the Investigating Officer or the driver of tempo. The irrespective of these contrary submissions , I am of the opinion that at this juncture the applicant can be permitted to withdraw certain amount.

3. In view of the above, the applicant is permitted to withdraw 50% of the deposited amount along with the proportionate interest by furnishing usual undertaking before the Registrar (Judicial) of this Court. The remaining amount be invested in F.D.R.in any Nationalized bank on yearly renewal basis till the disposal of this appeal.

(SANDIPKUMAR C. MORE)
JUDGE

shp/-