



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 CIVIL APPLICATION NO. 2808 OF 2024
IN FAST/22052/2023

Ranjana Sahebrao Aher

VERSUS

The Oriental Insurance Co.ltd And Ors

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Advocate for Applicant : Mr. M.H. Patil

Advocate for Respondent 1 : Mr. D. P. Deshpande

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CORAM : KISHORE C. SANT, J.

Dated : July 04, 2024

PER COURT :-

1. Heard.
2. The application is by the original claimant for withdrawal of amount deposited by the appellant.
3. The application is vehemently opposed by the learned advocate for the appellant. He submits that the appeal is mainly on the ground of non involvement of the offending vehicle in the accident and secondly that the claim petition was filed in collusion with owner and driver of the offending vehicle.
4. It is the case of the Insurance Company that immediately on lodging of the FIR, the Court has relied only the documents filed along with chargesheet. As a matter of fact, none of the witnesses whose statements are recorded in the chargehseet is examined in the Court in support of the claim. When the defence of non involvement and collusion between the parties was taken, it was necessary for the claimant to discharge that burden to prove otherwise.

5. Considering the above submissions, this Court finds that prima facie, there is no evidence led by the Insurance company in support of its defence. Considering the above position, this court is inclined to pass the following order.

ORDER

(i) The application is partly allowed. The applicant is permitted to withdraw 50% of the amount deposited in this Court along with accrued interest on furnishing usual undertaking. Applicant is further permitted to withdraw 25% of the amount deposited in this Court along with accrued interest on furnishing solvent surety/security to the satisfaction of the Registrar Judicial of this Court. Balance amount be invested in fixed deposit in any nationalized bank, to be renewed from time to time, till the disposal of the appeal. The application is disposed of accordingly.

(KISHORE C. SANT, J.)

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