



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

73 CIVIL APPLICATION NO. 4430 OF 2024
IN FA/3848/2023

KISHOR ANURATH UBALE THROUGH HIS NEXT FRIEND HIS BROTHER
ISHWAR ANURATH UBALE

VERSUS

UNITED INDIA INSURANCE COMPANY LTD THROUGH ITS BRANCH
MANAGER AND ANR

Mr.S.S. Dargad, Advocate for the applicants.

Mr.S.S.Rathi, Advocate for respondent No.1.

CORAM : KISHORE C. SANT, J.
DATED : 05.07.2024

PC :-

01. Heard learned Advocates for the parties. This application is filed for withdrawal of the amount deposited by the insurance company in this Court. The applicant is the person who received injury in an accident and who has become incapacitated from working.

02. The application is opposed by the appellant on the ground that there are substantial grounds taken in the appeal memo, such as non-involvement of the offending vehicle. Considering that the FIR was lodged after seven days of the accident, it creates doubt about involvement of the offending vehicle. He further states that in-case the amount is withdrawn by the claimant, it would be difficult to recover the same in case the appeal is allowed.

03. Considering the arguments, this Court is inclined to allow this application as under :-

ORDER

(i) The application is partly allowed.

(ii) The applicant is permitted to withdraw 50% of the amount deposited in this Court along with accrued interest on furnishing usual undertaking. Further 25% of the amount with interest is permitted to be withdrawn on furnishing solvent surety/security to the satisfaction of the learned Registrar (Judicial) of this Court. Balance amount shall be invested in the fixed deposit to be renewed from time to time, till disposal of the appeal.

(iii) It is submitted that the applicant himself is not in a position to file undertaking as he has become incapacitated. Even the claim was also filed through his brother. Therefore, office to accept undertaking of claimant's brother, namely, Ishwar Anurath Ubale.

[KISHORE C. SANT, J.]