



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

9 CIVIL APPLICATION NO. 5379 OF 2024
IN FA/4508/2023

RUTUJA NIKHIL YADHAV

VERSUS

GENRAL MANAGER CHOLAMANDAL MS GENEAL INSURANCE
COMPANY

...

Advocate for Applicant : Mr. Sachin Subhash Panale

Advocate for Respondent : Mr. A. S. Usmanpurkar

...

CORAM : KISHORE C. SANT, J.

DATE : 18th JUNE, 2024.

PER COURT :

1. This application is filed for withdrawal of the amount deposited by the Insurance Company in this Court.
2. The application is vehemently opposed by Shri Osmanpurkar, learned Advocate for the appellant on the ground that the applicant himself is the owner of the vehicle.
3. He submits that the applicant being owner of the vehicle, his claim was not maintainable. When such a ground is raised, it would be desirable to hear the appeal itself.

4. Learned Advocate for the applicant however, submits that the learned trial Court has considered this ground elaborately as said ground is raised by the Insurance Company even before the trial Court. Since the question of maintainability of the Claim Petition itself is raised in the appeal, this Court finds that it would not be in the interest of justice to allow to withdraw the entire amount. The applicant in the present case would be entitled to withdraw Rs. 5,00,000/- alongwith accrued interest. Hence the following order :

ORDER

- a) The application is partly allowed.
- b) The applicant shall be entitled to withdraw 5,00,000/- (Rs. Five Lakhs Only) along with interest accrued on it, deposited in this Court by the appellant/ Insurance Company on furnishing undertaking that she shall re-deposit the entire amount in case the appeal is allowed in favour of the Insurance Company, within 12 weeks thereafter.
- c) The application stands disposed off.

(KISHORE C. SANT)
JUDGE

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