



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

18 CIVIL APPLICATION NO. 7519 OF 2024
IN FAST/30446/2023

NOFAL KADAR MOHAMMAD
VERSUS
BAJAJ ALLIANCE GENERAL INSURANCE COMPANY LTD AND
ORS

...
Advocate for Applicant : Mr. Gore Ravindra Vitthal
Advocate for Respondent No.1 : Mr. M.R. Deshmukh
...

CORAM : KISHORE C. SANT, J.

DATE : 29th JULY, 2024.

PER COURT :

1. Heard the parties.
2. This application is for withdrawal of the amount deposited in this Court by the insurance company.
3. The application is vehemently opposed by Mr.Deshmukh, learned Advocate for the appellant/Insurance Company. He submits that in this case the very involvement of the truck is doubtful and is not acceptable. He submits that

the bus dashed to the side of the road and received damages. There is no case that the truck i.e. vehicle allegedly involved in the accident has dashed the bus. The FIR lodged by the bus driver himself shows that there was no actual collision between two vehicles. It is only the case of the bus driver that because he saw a truck coming from opposite direction, he took his bus to the extreme left side of the road and in that situation an accident occurred. There is no proof to show that the vehicle truck is responsible for an accident.

4. Learned Advocate further submits that there is clear finding given by the learned MACT that there is indisputably an accident between the vehicles. He further submits that as least the liability as per the insurance company would be Rs.7,50,000/- towards the 3rd party property damage.

5. This Court has seen paragraph No.12 of the judgment and in view of the observation in paragraph No. 12, this Court finds that the said observation prima-facie is not based on actual evidence and is based on police statement recorded during the course of investigation by the investigating

officer. Therefore, it would not be safe to allow the applicant to withdraw the entire amount. Hence this Court come to the conclusion that the liability at the most prima-facie would be 7,50,000/-. In view of the same, this court inclined to pass following order :

ORDER

a) The Civil Application stands allowed and disposed off.

b) The applicant is permitted to withdraw 7,50,000/- (Rs. Seven Lakhs and Fifty Thousand only) alongwith accrued interest on deposited amount on furnishing usual undertaking that in case the appeal is allowed in favour of the insurance company, he shall re-deposit the amount along with interest in this Court within 12 weeks from the said decision.

**(KISHORE C. SANT)
JUDGE**

mahajansb/