



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

19 CIVIL APPLICATION NO. 6305 OF 2024
IN FA/1501/2023

BARKIBEN UDESNGBHAI VASAVA AND ANR
VERSUS
THE SECRETORY, G.S.R.CORPORATION AND ANR

Mr.M.H. Patil, Advocate for the applicants.

Mr.M.K. Goyanka, Advocate for respondent No.1 and 2.

CORAM : KISHORE C. SANT, J.
DATED : 01.07.2024

PC :-

01. At the outset, the learned Advocate for the applicant seeks leave to correct name of the applicants.

02. Leave granted.

03. Heard. This application is filed for withdrawal of the amount deposited by the respondent-appellant in this Court pursuant to judgment passed by the learned Member, Motor Accident Claims Tribunal, Nandurbar in MACP No.16/2020.

04. The application is vehemently opposed by the learned Advocate for the appellant. He submits that the appeal is liable to be dismissed for non-joinder for necessary party. He further submits that the learned Member has

not considered the aspect of contributory negligence. There is no discussion about the spot panchanama. He submits that in-fact the accident took place in the middle of the road showing that the motor-cycle on which the injured was pillion rider, was driven in rash and negligent manner by the driver of the motor-cycle. He thus submits that no withdrawal be permitted.

05. The learned Advocate for the applicant, however, submits that the spot panchanama would clearly show that the accident took place on the left side of the road. It is the bus which came to the wrong side and gave dash to the motorcycle. The applicant was pillion rider and was not driving the motorcycle himself.

06. Considering the submissions, this Court finds that following order would meet the ends of justice.

i) The applicants are permitted to withdraw 50% of the amount deposited along with accrued interest on furnishing usual undertaking that they shall re-deposit the said amount in this Court within 12 weeks from the date of such order, in case the appeal is decided against them. Further 25% of the amount deposited along with accrued interest shall be withdrawn on furnishing solvent surety/security to the satisfaction of the learned Registrar (Judicial) of this Court.

ii) The remaining 25% amount shall be invested in the fixed

deposit to be renewed from time to time till disposal of the appeal.

iii) The civil application is accordingly allowed and is disposed off.

[KISHORE C. SANT, J.]