



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

904 CIVIL APPLICATION NO. 7512 OF 2024
IN FAST/9360/2024

MOHAMMAD SHAHABUDDIN MUJAWAR AND OTHERS
VERSUS
THE BRNACH MANAGER, UNITED INSURANCE COM LTD

...
Advocate for Applicant No. 1 : Mr. Shinde Manoj D.
Advocate for Respondent No. 1 : Mr. Bodade Shrikrishna R.
Advocate for Applicant No. 2 : Ms. Gausiya N. Sayyed h/f Mr.
Saeed S. Shaikh

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CORAM : KISHORE C. SANT, J.

DATE : 02nd AUGUST, 2024.

PER COURT :

1. Learned Advocate Ms. Gausiya N. Sayyed h/f Mr. Saeed S. Shaikh informs that she has received instructions to appear for applicant No. 2.
2. The applicants have prays for withdrawal of the amount deposited by the appellant insurance company in this Court.

3. The application is vehemently opposed by the learned Advocate Mr. Bodade. He submits that in this case the claimant has not strictly proved his grievance. On one hand he states that he is working in garage. On other hand he claims that he is owner of the garage namely 'K.N.Garage'. He further submits that in case there is evidence that the said rickshaw carrying 11 passengers and there is also no proof that the driver of the rickshaw was holding valid effective license on the date of accident for permit fitness certificate.

4. He has also not proved the exact loss of earning capacity. The Court has considered the earning capacity as 35% and income is also considered to be 15,000/- p.m. which is higher on site. Considering the above, this Court is inclined to allow the applicant to withdraw only 50% of the amount deposited on furnishing usual undertaking. Hence the following order :

ORDER

- a) The Civil Application is partly allowed and disposed off.
- b) The amount deposited in this Court be

transfer to the MACT, Nilanga with direction to the learned member MACT, Nilanga to allow the applicants to withdraw 50% of the amount deposited in the Court along with accrued interest on furnishing usual undertaking to that effect and in case the appeal is allowed the applicant shall re-deposit the amount with the MACT Nilanga, within twelve weeks from such decision.

c) Remaining 50% amount be invested in fixed deposit in any nationalized bank, to be renewed from time to time till disposal of the appeal.

(KISHORE C. SANT)
JUDGE

mahajansb/