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29&30-CA-12722-2024

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

29 CIVIL APPLICATION NO. 12722 OF 2024
IN FAST/14753/2024

Rameshwar Gulabrao Game

VERSUS

National Insurance Co Ltd And Anr

WITH

CIVIL APPLICATION NO. 5808 OF 2024
IN FAST/14753/2024

WITH

CIVIL APPLICATION NO. 5809 OF 2024
IN FAST/14753/2024

AND

30 CIVIL APPLICATION NO. 12724 OF 2024
IN FAST/14756/2024

Shyamrao Kishanrao Game

VERSUS

National Insurance Co Ltd And Anr

WITH

CIVIL APPLICATION NO. 5810 OF 2024
IN FAST/14756/2024

WITH

CIVIL APPLICATION NO. 5811 OF 2024
IN FAST/14756/2024

Mr. Suraj R. Bagal for Petitioner.

Mr. Atul B. Gatne, (through VC) Advocate for Respondent No.1.

CORAM : KISHORE C. SANT, J.

DATE : 2nd DECEMBER 2024

PC :-

1. Heard the learned Advocate for the parties.
2. The applications are vehemently opposed by the learned Advocate Mr.Gatane appearing for Respondent. He points out that the owner of the vehicle is in habit of showing involvement of the vehicle in various other motor accident claims. However, there is no medical practitioner examined in support of the disability certificate. He submits that the other MACP claims are pending before the very claim tribunal and still no cognizance was taken of that interim by the learned MACT. In such circumstances, no amount shall be permitted to be withdrawn. He thus opposes the application.
3. Learned Advocate for the applicant submits that though the involvement of the same vehicle is shown in other MACPs. However, those MACPs are subsequent to filing of present MACP. In spite of sufficient opportunity, the insurance company has not examined anyone in the trial to support their defence. Further, he submits that amount is only Rs.2,21,000/- and Rs.2,41,000/-in the other matter. Even if the amounts are directed to be withdrawn, no harm would be caused to the insurance company.
4. This Court mainly considered that in spite of opportunity, no witness was examined before the tribunal by the insurance company and secondly that

the amount is very small amount. Hence following order:

ORDER

1. The applicants are permitted to withdraw 50% of the amount alongwith accrued interest on furnishing usual undertaking in the office of this Court.
2. With this, application stands disposed off.

CIVIL APPLICATION FOR STAY

. Heard. Since the amount is already deposited, there shall be stay to the impugned judgment and award till the final disposal of the appeal.

FIRST APPEAL

1. Heard.
2. Issue notice the the Respondents, returnable on 10th February 2025.
3. Learned Advocate Mr.Bagal waives service of notice for original claimant.

[KISHORE C. SANT, J.]

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