**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 14605 OF 2023 IN FA/1975/2023

SAYYAD RASHED ALI SAYYAD HUSSAIN
VERSUS
UNITED INDIA INSURANCE COMPANY LTD THROUGH ITS BRANCH MANAGER AND OTHERS

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Advocate for Applicant : Mr. Swapnil S. Dargad
Advocate for Respondent No.1 : Mr. S. R. Bodade

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CORAM : S. G. MEHARE, J.
DATE : 15-03-2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned counsel for respondent No.1/insurer.

2. Learned counsel for respondent No.1 submits that insurance policy does not cover passenger’s risk in auto rickshaw. It was a third party/act policy. There are various judgments on the point of paying the compensation to the passengers travelling in auto-rickshaw.

3. It was a case that the auto rickshaw in which the injured/ applicant was travelling was over-turned. It is a matter of negligence. Therefore, at this juncture, the objection of the learned counsel for the appellant not to release the amount could not be considered.

5. It is a case of the applicant that he has suffered 44% permanent disablement. A small compensation of Rs.2,50,000/- was granted to him. The appellant has deposited the entire

compensation money.

6. It is experienced that almost all the lawyers of the insurance company are strongly opposing at the very primary stage. The Motor Vehicles Act is a social Legislature. The strict rule of evidence is not applicable to the cases of the motor accident claims. In this case, *prima facie* it appears that the applicant was travelling in auto-rickshaw which was over-turned. In a normal life, a passenger does not ask the auto-rickshaw driver, whether his vehicle is insured covering passenger’s risk or does he have a driving license. It does not happens in a day-to-day life. Bearing in mind all these factors, this law has been enacted. At the time of deciding such application, the Court has to see *prima facie* case and grant relief sufferers. There is no absolute bar to allow the claim to withdraw amount only on the strong objection of the insurer. Bearing in mind, the social legislation and in view of the dispute on facts, the following order is passed;

ORDER

i) The application is partly allowed.

ii) The applicant is permitted to withdraw 80% of the amount deposited with this Court, with accrued interest on the condition that he would deposit the amount, if the impugned judgment and award is reversed.

(S. G. MEHARE)
JUDGE

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