



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

944 CIVIL APPLICATION NO. 7833 OF 2025
IN FAST/12292/2025

SANTOSH GANGADHAR SANGEWAR

VERSUS

BHARTI AXA GENERAL INSURANCE CO LTD THROUGH ITS MANAGER AND
ANR

...

Mr. S. N. Janakwade, Advocate for Applicant
Mr. Abhijit Choudhari, Advocate for Respondent No.1

...

WITH

CIVIL APPLICATION NO. 5087 OF 2025
IN FAST/12292/2025

BHARATI AXA GENERAL INSURANCE CO LTD MERGED NOW AS I C I C I
LOMBARD GENERAL INSURANCE CO LTD AND

VERSUS

SANTOSH GANGADHAR SANGEWAR

WITH

CIVIL APPLICATION NO. 5088 OF 2025
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BHARATI AXA GENERAL INSURANCE CO LTD MERGED NOW AS I C I C I
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VERSUS

SANTOSH GANGADHAR SANGEWAR AND ANOTHER

...

CORAM : AJIT B. KADETHANKAR, J.

DATE : 26.09.2025

PER COURT :-

CIVIL APPLICATION NO. 7833 OF 2025 IN FAST/12292/2025 (Withdrawal)

1. Feeling aggrieved by the judgment and award dated 22.08.2024, passed by the learned Extra Joint District Judge-1 and Member, Motor Accident Claim Tribunal, Nanded, in Motor Accident Claim Petition No.145 of 2012, the appellant/Insurance Company has preferred this First Appeal under Section 173 of the Motor Vehicle Act, 1988.

2. Mr. Choudhari, learned counsel for the Insurance Company submits that pursuant to the directions passed by this Court, the entire payable award amount together with interest has been deposited by the Insurance Company in this Court.

3. Mr. Janakwade, learned counsel for the applicants submits that the entitlement of the applicant is decided by the learned Tribunal after assessing the evidence on record and also considering the defence raised by the Insurance Company in the First appeal. In view of this, he prays for withdrawal of the amount.

4. Per contra, Mr. Choudhari submits that this was an injury claim, and it was an undisputed fact that there was no loss of earning capacity or loss of income. He points out that the applicant, who was employed in the Police Department, admitted in cross-examination that there was no deduction in his salary and no impairment of his service as a result of the alleged disability. Further, he submits that the applicant did not examine any witness to support

his medical certificate. In view thereof, he prays for rejection of the application.

5. Upon having heard the parties, I find that the appellant has raised strong objection in the appeal particularly as regards the entitlement of the applicant as against the loss of earning capacity/loss of income. However, the fact cannot be overlooked. Today, the award stands in favour of the applicant and the objection raised by the Insurance Company as to whether any amount under the heading of loss of income/loss of earning capacity could be granted. The entitlement of the applicant has been adjudicated by the learned Tribunal. The appellant/Insurance Company has every right to demonstrate how the findings rendered by the learned Tribunal are erroneous. But since the award in favour of the applicant is effective and pertains also to medical treatment, I deem it appropriate to pass the following order, thereby protecting the interests of both the applicant and the appellant/Insurance Company.

ORDER

- a. Civil Application is partly allowed.
- b. Applicant is permitted to withdraw an amount of Rs.4.5 Lakh (Rupees Four Lakh Fifty Thousand) on furnishing usual undertaking and further Rs.2 Lakh (Rupees Two Lakh) on furnishing solvent security/surety to the satisfaction of the

learned Registrar (Judicial) of this Court.

c. Civil Application stands disposed of.

CIVIL APPLICATION NO. 5087 OF 2025 IN FAST/12292/2025 (Delay)

1. Feeling aggrieved by the judgment and award dated 22.08.2024, passed by the learned Extra Joint District Judge-1 and Member, Motor Accident Claim Tribunal, Nanded, in Motor Accident Claim Petition No.145 of 2012, the appellant/Insurance Company has preferred this First Appeal under Section 173 of the Motor Vehicle Act, 1988.

2. This Civil Application is for condonation of delay of 146 days caused in filing the First Appeal.

3. Mr. Choudhari, learned counsel for the Insurance Company, submits that the delay is not inordinate nor due to lethargy on the part of the applicant. He contends that the delay occurred only due to administrative exigencies, including obtaining internal approvals and arranging adequate funds for filing the appeal. Mr. Choudhari further submits that the applicant/Insurance Company has deposited the entire award amount payable to the claimant in this Court, together with interest, thereby protecting the claimant's interest.

4. Mr. Janakwade, learned counsel for respondent no.1 vehemently opposes the application.

5. Having heard the parties, I find that the delay is satisfactorily explained by the Insurance Company. I do not find any lethargy or deliberate attempt to prolong the proceedings on their part. Moreover, the interest of the respondent/claimant is secured by the deposit of the entire award amount, along with interest, in this Court.

6. In view of this, I pass the following order :-

ORDER

- a. Civil Application is allowed.
- b. Delay of 146 days, caused in filing the First Appeal is hereby condoned.
- c. Registry to register the First Appeal, subject to removal of office objections, if any, by the applicant, within a period of two weeks from today.

CIVIL APPLICATION NO. 5088 OF 2025 IN FAST/12292/2025 (Stay)

1. In view of the fact that the appellant/Insurance Company has deposited entire payable award amount in this Court together with interest pursuant to the directions issued by this Court earlier, stay granted earlier is made absolute.
2. Civil Application is allowed in terms of prayer clause "B".
3. Civil Application stands disposed of.

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1. Heard.
2. **Admit.**
3. Issue notice to the respondents, returnable on 05.12.2025. Mr. Janakwade, learned counsel waives service of notice for respondent no.1
4. Call Record and Proceeding.
5. The matter be listed after service of notice is complete. In the meantime, applicant/appellant shall take recourse to the provisions enumerated in Chapter II of the Bombay High Court Appellate Side Rules, corresponding to the stage and requirement of matter.

[AJIT B. KADETHANKAR, J.]

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