2025:BHC-AUG:26364

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

954 CIVIL APPLICATION NO. 5244 OF 2025
IN FA/3083/2024

SACHIN GORAKHNATH KADAM
VERSUS
SHRIRAM GENERAL INSURANCE CO LTD AND ANR
...
Ms. Gaytri S. Kalve h/f. Mr. M. V. Ghatge, Advocate for Applicant
Mr. S. S. Rathi, Advocate for Respondent No.1
...

CORAM : AJIT B. KADETHANKAR, J.
DATE : 23.09.2025

PER COURT :-

1. Feeling aggrieved by the judgment and award dated 31.07.2024, passed by the learned Motor Accident Claims Tribunal, Nanded, in M.A.C.P. No.129 of 2017, the applicant/appellant has preferred present First Appeal.

2. Pursuant to the stay granted by this Court to the execution and operation of the judgment and award impugned in the First Appeal, the appellant/acquiring body has deposited entire payable award amount in this Court with accrued interest. In this backdrop, the original claimant has filed the present Civil Application seeking withdrawal of the deposited amount.

3. Ms. Kalve h/f. Mr. Ghatge, learned counsel for the applicant submits that the entitlement of the claimant has been adjudicated by the

learned Tribunal after assessing the evidence on record and examining the facts of the case. She further submits that the applicant not only suffered permanent disability and loss of earning capacity but also incurred huge medical expenses. In view of this, Ms. Kalve seeks permission to withdraw the entire payable award amount deposited by the Insurance Company in this Court.

4. Mr. Rathi, learned counsel for the Insurance Company would submit that it was a case of traveler who was traveling in a goods vehicle. He would submit that as per claimant’s case, the applicant/appellant was engaged for loading and unloading goods in the insured vehicle. Mr. Rathi would further submit that the insurer/appellant demonstrated before the learned Tribunal that the risk of gratuitous or fare paying occupant in the vehicle was not covered by the policy.

5. That, however the learned Tribunal after noting that the claimant could have been accommodated within the seating capacity of the vehicle possibly as a labourer as contended by the claimant, passed the impugned judgment and award holding the appellant/Insurance Company liable to indemnify the insured owner. Mr. Rathi also points out that the owner of the vehicle is the father of the present applicant in the original proceedings. He further submits that the Insurance Company has a strong case on merits and

that allowing the claimant to withdraw the deposited amount at this stage would seriously prejudice the interests of the Insurance Company.

6. Upon having heard the parties, I am of the considered view that, today the award stands in favour of the applicant. The Defence raised by the Insurance Company has already been adjudged by the learned Tribunal by applying its judicious mind, which is a subject for re-assessment in the appeal.

7. On this background, I pass the following order :-

ORDER

a. Civil Application is partly allowed.

b. Applicant is permitted to withdraw an amount of Rs.7.5 lakh out of the deposited amount by the Insurance Company in this Court with accrued interest on furnishing usual undertaking to the satisfaction of the learned Registrar (Judicial) of this Court.

c. Remaining balance amount be kept in fixed deposit in nationalized bank.

d. Civil Application stands disposed of.

FIRST APPEAL 3083 OF 2024

1. Heard.

2. **Admit**.

3. Paper book is dispensed with.

[AJIT B. KADETHANKAR, J.]

PRW