



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 4670 OF 2025
IN FA/350/2025

Kailas Bajirao Avhad

VERSUS

Branch Manager New India Assurance Company And Another

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Advocate for Applicant : Mr. D.A. Bide

Advocate for Respondent No.1 : Mr. Ambhore Maroti Mahadu

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CORAM : S.G. CHAPALGAONKAR, J.

DATED : APRIL 24, 2025

PER COURT :

1. Heard learned advocates appearing for respective parties.
2. The applicant/original claimant in MACP No.02 of 2023 seeks permission to withdraw the amount deposited by respondent/insurer in pursuance to award dated 21.10.2024. On 14.03.2020, the claimant was proceeding on motorcycle, which was dashed by a tempo. On account of said accident, he suffered injuries and consequentially permanent disabilities. He instituted claim seeking compensation from owner and insurer of tempo. The claim was contested on behalf of insurance company firstly on the ground that it is barred by limitation, secondly, involvement of vehicle in accident as there is delay in lodging FIR and thirdly, claim is excessive and exorbitant. The Tribunal after evaluation of evidence concluded that claimant proved involvement of insured vehicle and passed an award for Rs.4,05,000/- along with accrued interest @ 9% p.a. in favour of claimant.

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3. Aggrieved insurer filed this appeal carrying forward its defence as raised before the Tribunal.

4. *Prima facie*, it can be observed that accident occurred prior to commencement of Amended Act of 2019. Therefore, provisions regarding limitation which are given effect from 01.04.2022 would not apply. So far as involvement of vehicle is concerned, although there is delay of four days in lodging FIR, claimant himself is eyewitness. His case is supported by police papers. The Tribunal recorded elaborate reasoning that accident occurred due to involvement of insured vehicle.

5. In that view of the matter, *prima facie*, claimant has made out a case for permitting partial withdrawal of amount. Hence, following order :

ORDER

- (i) Application is partly allowed.
- (ii) Applicant is permitted to withdraw amount of Rs.2,50,000/- from the amount deposited by appellant/insurer along with accrued interest thereon on furnishing usual undertaking to the satisfaction of Registrar (Judicial) of this Court.
- (iii) Balance amount be kept in fixed deposit till further orders.
- (iv) Application stands disposed of.

(S.G. CHAPALGAONKAR, J.)