



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

17 CIVIL APPLICATION NO. 851 OF 2025 IN FAST/13755/2024

Gajanan Pralhad Kalkumbe

VERSUS

New India Assurance Co Ltd Through Diviisional Manager And
Ors

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Advocate for Applicant : Mr. Kulkarni Vaibhav Balkrishna

Advocate for Respondent : Mr. A S. Usmanpurkar

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WITH

CIVIL APPLICATION NO. 5429 OF 2024 IN FAST/13755/2024

WITH

CIVIL APPLICATION NO. 5430 OF 2024 IN FAST/13755/2024

CORAM : S. G. CHAPALGAONKAR, J.

Dated : April 04, 2025

PER COURT :-

1. Heard learned advocates appearing for the respective parties.
2. The applicant is original claimant in MACP No.148 of 2015. He suffered injuries in the motor vehicular accident dated 29.5.2011 while he was driving Tata Sumo bearing registration No. MH-20-AG-2109. It was dashed by the insured vehicle Eicher canter bearing No.MH-04-BU-6131. The claimant suffered fracture to his neck and consequently permanent disablement.
3. Insurer of Eicher Canter refuted claim on the ground that claimant himself was responsible for accident while driving his Tata Sumo. Secondly, insured vehicle was driven in

contravention of the permit. Thirdly, claim is excessive and exorbitant.

4. Tribunal after evaluation of the evidence passed an award of Rs.6,59,600/- alongwith interest @ 7% p.a.

5. Aggrieved insurer filed present appeal carrying forward the same grounds/defences raised before the tribunal. Perusal of the reasoning given by the Tribunal and grounds of appeal shows that entitlement of the claimant to receive compensation cannot be denied in toto. Issue as to the contributory negligence or quantum can be considered at the time of final hearing of the appeal. The issue of breach of policy may not come in the way of the claimant to receive compensation. In that view of the matter, following order is passed.

O r d e r

- i. The application is partly allowed.
- ii. The applicant is permitted to withdraw 60% of the compensation amount on furnishing undertaking to the satisfaction of the Registrar (Judicial) of this Court that, in case, adverse order is passed, he shall re-deposit the amount within a period of six weeks.
- iii. The application stands disposed of.

Stay application :-

6. Mr. Usmanpurkar, learned counsel for the applicant submits that entire amount as per the award passed by the Tribunal has been deposited with the Registry of this Court.

7. His statement is supported by office endorsement. Hence, application is allowed in terms of prayer clause B and C disposed of.

Delay Application :-

8. Re-issue notice to the respondent no.2, returnable after two weeks.

(S. G. CHAPALGAONKAR, J.)

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