



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

**CIVIL APPLICATION NO. 10132 OF 2025
IN FAST/19056/2025**

Kalidas Vishwambhar Mote

VERSUS

The Branch Manager, Chola Mandalam Ms General Insurance
Co Ltd And Anr

...

Mr. M. D. Shinde, Advocate for Applicant

Mr. A. S. Dale h/f Mr. S. S. Rathi, Advocate for Respondent
no.1

...

WITH

**CIVIL APPLICATION NO. 6838 OF 2025
IN FAST/19056/2025**

WITH

**CIVIL APPLICATION NO. 6839 OF 2025
IN FAST/19056/2025**

.....

CORAM : AJIT B. KADETHANKAR.

DATED : 24TH SEPTEMBER, 2025

ORDER :-

CIVIL APPLICATION NO. 10132 OF 2025 IN FAST/19056/2025

. Feeling aggrieved by the judgment and award dated 05.02.2025, passed by the learned Member, Motor Accident Claims Tribunal, Osmanabad in M.A.C.P. No.280 of 2018, the Insurance Company/original respondent no.2 has presented this First Appeal.

2. Mr. M. D. Shinde, learned Advocate for the applicant/claimant submits that it was an injury claim wherein the learned Tribunal after assessing the permanent disability, loss of earning capacity and the liability of the parties has passed the judgment and award impugned in the First Appeal. Mr. Shinde learned Advocate further submits that the entitlement of the claimant to receive the granted award amount has been adjudicated by the learned Tribunal after assessing the evidence on record and after examining facts of the case. In view of this, Mr. Shinde prays withdrawal the entire award amount deposited by the Insurance Company in this Court.

3. Mr. A. A. Dale h/f Mr. S. S. Rathi, learned Advocate representing the appellant Insurance Company would submit that the appeal rests on two grounds i.e. (I) quantum and (II) the learned Tribunal has not considered that the driver of the insured vehicle was not even holding valid and effective driving licence at the time of the accident. Mr. Dale, learned Advocate would submit that the interest of the appellant/Insurance Company is at stake on the point of

quantum as well as on legal defence. With this, Mr. Dale, learned Advocate opposes the application.

4. Upon having heard both the parties, I am of the considered view that today the award stands in favour of the claimant. The defence of the Insurance Company which is in trial and the grounds of appeal in the present appeal have been dealt in by the learned Trial Court by applying its judicious mind and considering the evidence on record. In view of this by protecting interest of the appellant/Insurance Company, the application of claimants can be partially allowed.

5. In view of this, I pass following order:

ORDER

- a. Civil Application stands partly allowed.
- b. The applicant/claimant is permitted to withdraw 75 percent of the deposited amount by furnishing usual undertaking to the satisfaction of the learned Registrar (Judicial) of this Court.
- c. Balance 25 percent of the deposited amount be kept in fixed deposit in any nationalized bank.

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. It is not disputed that the appellant/Insurance Company has deposited the entire payable award amount with accrued thereon in this Court.

2. In view of this, the stay granted earlier is made absolute.

3. Civil Application stands allowed in terms of prayer clause 'B'.

(AJIT B. KADETHANKAR, J.)

Rushikesh/2025