



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

967 CIVIL APPLICATION NO. 8275 OF 2025
IN FAST/33779/2024

ALKA SANJAY SHINDE

VERSUS

UNITED INDIA INSURANCE COMPANY
LIMITED PUNE THROUGH AND ANR

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Advocate for the Applicant : Mr.Jaydeep Samadhan Kadam

Advocate for Respondent No.1 : Mr.Suraj R.Bagal

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CORAM : SHAILESH P. BRAHME, J.

DATE : 06th AUGUST 2025

PER COURT :

. Heard both sides.

2. This application is for withdrawal of amount of Rs.29,65,931/- deposited by the Respondent/insurance company in the appeal, for the reasons stated in the application.

3. It is submitted by learned counsel for the applicant that the findings recorded by the tribunal regarding composite negligence are just and proper and liability is rightly saddled on the Respondent/insurance company. At this juncture, no fault can be found with the findings recorded by tribunal.

4. Learned counsel Mr.Bagal appearing for the insurance company tenders on record civil application. My attention is adverted

to the police papers especially first information report which is silent regarding any rashness or negligence on the part of rider of motorcycle. It is submitted that applicant did not produce police statement or any other papers of the investigation. The inconsistent stands have been taken by the applicant to secure the compensation. He seeks reliance on the judgment of this Court in the matter of **Sakharam Suryabhan Jadhav vs. Popat Shahurao Ghadge and others** in First Appeal No.1154 of 2017 and **M/s.Shriram General Insurance Company Limited vs. Chandrakala Atmaram Mohite and others** in First Appeal No.02757 of 2017 to buttress the submission that in the absence of any negligence on part of the driver of the vehicle, liability of the insurance company can not be attracted.

5. I have considered rival submissions of the parties. The findings recorded by the tribunal in respect of contributory negligence is vulnerable and needs to be tested at the time of final hearing. The insurance company has preferred appeal pre-dominantly for that purpose. The papers of the investigation which are placed on record disclose that due to the rash and negligent driving of the offending vehicle which is un-identified, the accident occurred. Prima facie I find that the submissions of learned counsel Mr.Bagal carries substance.

6. However, it's a death claim and the trauma and sufferings of the applicant can not be discarded. Hence, under peculiar circumstances, I am of the considered view that the ends of justice

would be met in permitting the applicant to receive 50% of the amount with accrued interest on furnishing bank guarantee of the like amount.

7. Civil application is partly allowed by permitting the applicant to receive 50% of the amount with accrued interest deposited in this Court on furnishing bank guarantee of nationalized bank.

8. Balance amount shall be invested in nationalized bank.

[SHAILESH P BRAHME, J.]

vsj..