



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

**968 CIVIL APPLICATION NO. 13968 OF 2024
IN FA/1338/2024**

**SHAIKH SHAHED S/O SHAIKH ABDUL MAJID
VERSUS**

**GO DIGIT GENERAL INSURANCE
CO LTD THROUGH ITS BRANCH MANAGER AND ORS**

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Advocate for the Applicant: Mr.Pramod Mayure C
Advocate for Respondent No.1 :Mr.Mohit R.Deshmukh

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**CORAM : SHAILESH P. BRAHME, J.
DATE : 4th JULY 2025**

PER COURT :

. Heard both sides.

2. Applicant is seeking withdrawal of amount of Rs.23,33,469/- deposited in this Court by the respondent/insurance company. Applicant suffered an accident and he was admitted in hospital. His earning capacity is affected and he is in low income.

3. Learned counsel Mr.Deshmukh for the respondent/insurance company strongly opposes the application by pointing out peculiar facts and circumstances of the case. It is contended that Respondent No.3/owner obtained the policy by fraud and misrepresentation. A premium of Rs.510/- payable for two wheeler was paid whereas the vehicle involved in an accident is a four wheeler. After occurrence of accident, the mischief is disclosed to the insurance company and promptly steps are taken. It is contended that it's a blazen fraud

vitiating contract between the insurer and the insured.

4. I have considered rival submissions of the parties. They have raised contentious issues. The merits of the matter can not be gone into. Both the learned counsel cited couple of judgments in support of their submissions. As the respondent/insurance company is alleging fraud and absence of any contract between the parties, I do not think that applicant is entitled to receive entire amount. As against that there is substance in the submission of learned counsel for the applicant that no fault can be attributable to him and he being third party, beneficial legislation would enure to his benefit.

5. First appeal is still unready because Respondent No.4 is yet to be served. Respondent/insurance company is ready to take steps against unserved respondent. In the interest of justice, I allow this application partly.

6. Civil application is allowed partly permitting the applicant to receive 30% of the amount deposited on furnishing solvent surety/security to the satisfaction of Registrar (Judicial) of this Court. The balance amount shall be invested in nationalized bank.

[SHAILESH P. BRAHME, J.]

vsj..