



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

**70 CIVIL APPLICATION NO. 13622 OF 2024
IN FA/1/2024**

**SANDEEP SURESH MANDLIK
VERSUS
UMAKANT MADHAV MALI AND ANR
WITH
CIVIL APPLICATION NO. 54 OF 2024
IN FA/1/2024**

**BRANCH MANAGERSAHEB, THE NEW INDIA INSURANCE
CORRECTED ASSURANCE CO LTD**

**VERSUS
SANDIP SURESH MANDLIK AND ANOTHER**

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Mr. Shaikh Mazhar A. Jahagirdar And Mr. Shaikh Sohail Yusuf,
Advocate for applicant and for respondent No.1 in CA No.54/2024
Mr. Sudhir V. Kulkarni, Advocate for Respondent No.2 and for
applicant in CA No.54/2024
Mr. U. A. Sayyed h/for Mr. Sartaj Pathan, Advocate for Respondent
No.2 in CA No.54/2024

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 02.05.2025

PER COURT :-

APPLICATION FOR WITHDRAWAL OF AMOUNT

. Heard learned Advocates appearing for respective parties.

2. Applicant seeks permission to withdraw the amount deposited by the respondent/insurance company in pursuance to the award passed in MACP No.39 of 2017. Applicant is the

original claimant. He suffered injuries in motor vehicular accident dated 05.12.2016. It is his contention that while he was proceeding on motorcycle, the insured Maruti Car gave dash to the motor cycle. In result, he suffered injuries resulting into 41% permanent disability. The respondent/insurer refuted the claim, contending that the FIR was lodged seven days after the accident and that there is no record indicating the involvement of the insured vehicle. The aforesaid aspects have been considered by the Tribunal. The Tribunal concluded that the claimant was hospitalized and was referred to a higher centre for further treatment. In that view of the matter, the delay of seven days is not considered fatal to the claim. Looking to the reasonings adopted by the Tribunal and the fact that the claimant has suffered 41% permanent disability, he is certainly entitled for partial withdrawal of the amount. Hence following order:

::ORDER::

- (i) Civil application is partly allowed.
- (ii) Applicant is permitted to withdraw 50% of the compensation amount as deposited by the respondent/insurer on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court that he shall re-deposit the

amount, in case, adverse order is passed in appeal.

(iii) Such undertaking to be filed within a period of six (06) weeks from today and be made part of the appeal memo.

APPLICATION FOR STAY

. Mr. Kulkarni, learned Advocate for the applicant submits that the entire amount as per the award passed has been deposited with the Registry of this Court. His statement is supported by office endorsement. Hence, application is allowed in terms of prayer clause (B) and disposed of.

IN APPEAL

. Admit.

2. Print and paper book dispensed with.

[S. G. CHAPALGAONKAR, J.]

HRJadhav