

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

Interim Application No.10231 of 2025

In

First Appeal No. 650 of 2025

With

First Appeal No.650 of 2025

Mr. Baban Babu Vaghare

... Applicant

V/s.

M/s. Cholamandalam MS Gen Ins Co. Ltd.

And anr.

... Respondents

Mr. T.J. Mendon	Advocate for the Applicant.
Mr. Aditya Ghadge h/f. Sarthak Diwan	Advocate for the Appellant-Insurance company.

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CORAM : S.M. MODAK, J

DATE : 30th September 2025.

P.C. :

Heard learned Advocate for the Claimant and learned Advocate for the Appellant-Insurance Company.

2. This Appeal is against Award dated 24th September 2024 passed by the MACT Mumbai to the injured-claimant the amount of Rs.4,46,108/- along with 7% interest. The insurer and the insured both were directed to pay the amount. The claim petition was filed in the year 2017.

3. There is a strong opposition for allowing the withdrawal. It is on account of specific defence taken about insurance policy being fake. No doubt it is true that the Insurance Company has made an attempt to prove this defence by examining his officer but it seems that it has not appealed to the conscious of learned Member. Hence, rejected.

4. The law is facts pleaded in written-statement has to be proved with cogent and sound evidence. Ultimately, what evidence should be given is left open for the Insurance Company. I am inclined to allow withdrawal of 50%. In view of that following order is passed:

ORDER

(i) The claimant is permitted to withdraw 50% of the deposited amount along with corresponding interest on furnishing usual undertaking.

(ii) Interim Application is disposed of.

5. The Appellant is at liberty to file compilation of documents. Appeal be listed on **13th November 2025**.

(S.M. MODAK, J.)