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

**INTERIM APPLICATION NO.11612 OF 2025
IN
FIRST APPEAL NO.2063 OF 2024**

Vipin Prem Narayan Sharma

.. Applicant

Versus

Future Generali India Insurance Co. Ltd. & Ors.

.. Respondents

Mr.Vasant More, Advocate for the Applicant.

Ms.Deepika Prabhala i/b Res Juris, Advocate for the
Respondent No.1/Original Appellant.

**CORAM : B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.**

DATE : SEPTEMBER 19, 2025

UTKARSH
KAKASAHEB
BHALERAO

Digitally signed by
UTKARSH KAKASAHEB
BHALERAO
Date: 2025.09.20
11:29:50 +0530

P. C.

1. The above Interim Application is filed seeking withdrawal of the amount of Rs.1,37,74,459/- deposited by the Appellant-Insurance Company in this Court. The aforesaid deposit was made pursuant to order dated 16th December 2024. It is this amount that the Applicant seeks to withdraw.

2. The Application for withdrawal was vehemently opposed by the learned advocate appearing on behalf of the Appellant-Insurance Company. She submitted that on the facts of the present case, one of the main issues involved is whether there was in fact a valid policy existing on the date when the accident took place. She submitted that according to the Appellant-Insurance Company the Motor Car MH-02-CR-3660, and which was one of the vehicles involved in the accident, was insured with the Appellant-Insurance Company from 12th March 2016 to Midnight of 11th March 2017. According to the Appellant-Insurance Company, on the date when the accident took place i.e. 9th July 2017, the Motor Car MH-02-CR-3660 did not have any valid insurance policy. According to the Insurance Company the policy relied upon by the Applicant (the Original Claimant) before the MACT was a fake policy for various reasons. This being the core issue, she submitted that no amount ought to be allowed to be withdrawn by the Applicant-Original Claimant.

3. We have heard the learned counsel for the parties. We have also perused the papers and proceedings in the above Interim Application. We have also gone through the impugned order. We find that Issue No.3 framed by the Tribunal was whether the Appellant-

Insurance Company proves the defences raised and particularly that the Insurance Policy produced by the Applicant for the said Motor Car is a fake policy. This issue was answered by the Tribunal in the negative for the reasons more particularly set out in paragraph No.20 to 25 of the impugned Judgment and Award. We are mindful of the fact that the said impugned Judgment and Award is challenged in the above Appeal. However, the Applicant atleast succeeded before the MACT on this issue.

4. Considering these facts and circumstances, we are of the opinion that interest of justice would be served if the Applicant is permitted to withdraw some amount from the sum of Rs.1,37,74,459/-. This would obviously be subject to Applicant giving an undertaking that he shall bring back the amount withdrawn together with interest at such rate as this Court may direct at the hearing and final disposal of the Appeal.

5. In light of the aforesaid discussion, we pass the following order:-

- (a) Out of the sum of Rs.1,37,74,459/- deposited by the Appellant-Insurance Company in this Court, the

Applicant is permitted to withdraw a sum of Rs.30,00,000/- subject to the Applicant giving an undertaking to this Court that in the event the above First Appeal succeeds, he shall bring back the aforesaid amount or any part thereof, together with interest at such rate as this Court may decide at the hearing and final disposal of the Appeal.

- (b) As far as the balance amount is concerned, the same shall be invested in a Nationalized Bank (if not already invested) and shall abide by further orders passed by this Court.

6. The above Interim Application is disposed of in the aforesaid terms. However, in the facts and circumstances of the case, there shall be no order as to costs.

7. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.]

[B. P. COLABAWALLA, J.]

Page 4 of 4

SEPTEMBER 19, 2025

Utkarsh