

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

**CIVIL APPLICATION NO. 2454 OF 2014
IN
FIRST APPEAL NO. 211 OF 2012**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Niketan Nakhawa i/b A. M. Gokhale for the applicant.

Mr. S. M. Dange for the respondent.

CORAM : K. K. TATED, J.

DATED : 08/04/2015.

PC.:

. Heard learned Counsel for the parties.

2 This application is preferred by claimant for withdrawal of amount deposited by the appellant before the Commissioner for Workmen's Compensation.

3 The learned Counsel for the applicant submits that in the present proceeding in the accident which occurred on 26.05.2006, the applicant sustained injury. He submits that applicant sustained crush injury to right ankle lower 1/4th leg and amputation of right ankle. He further submits that the applicant was admitted in K.B. Bhabha Hospital on 26.05.2006 to 19.06.2006. He submits that the applicant suffered 100% loss of earning capacity. On that

date, he was 22 years old and was working as cleaner. He submits that the applicant was drawing salary of Rs.4150/- with overtime and bhatta charges. He submits that it is very difficult for him to maintain himself. He requires amounts for his day-to-day maintenance as well as medical expenses. He submits that in the interest of justice, this Hon'ble Court be pleased to allow the applicant to withdraw the amount deposited by the appellant insurance company. He submits that if applicant has not allowed to withdraw the amount, irreparable loss and injury will be caused to the applicant.

4 On the other hand, the learned Counsel for the appellant insurance company vehemently opposed the present Civil Application. He submits that the First Appeal is already admitted by this Court and same is pending for hearing and final disposal on its own merits. He submits that if amount is withdrawn by the applicant without furnishing any security, it will be very difficult for them to recover the same if they succeed in the present proceeding.

5 I heard both the sides at length. It is to be noted that in the present proceeding, the claimant was working as cleaner. In the accident which occurred on 26.05.2006, he sustained the injury and he was admitted in the hospital for more than three

weeks.

6 Considering the reasons disclosed by the applicant and Judgment and Award passed by the Trial Court dated 07.08.2009, I am of the opinion that applicant has made out case for allowing him to withdraw some amount at present.

7 Hence, the following order.

a) Civil Application is allowed.

b) Applicant is permitted to withdraw 25% amount without furnishing any security subject to the outcome of the First Appeal.

c) Applicant is further allowed to withdraw 25% amount by furnishing solvent security to the satisfaction of the Trial Court within three months from today.

d) The Commissioner for Workmen's Compensation is directed to invest the remaining amount in Fixed deposits of any Nationalised Bank, initially for the period of one year and same to be continued till hearing and final disposal of the First Appeal, if it is not invested.

e) Civil Application is disposed of accordingly.

(K.K.TATED, J.)