

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

**CIVIL APPLICATION NO. 110 OF 2015  
IN  
FIRST APPEAL (ST) NO. 21455 OF 2013**

Mr. Ramesh Kumar Mohan Ram ... Applicant  
V/s.  
National Insurance Co. Ltd. & Anr. ... Respondents

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Mr. T. K. Sinha for the applicant.  
Mr. Amol Gatne for the respondent.

**CORAM : K. K. TATED, J.  
DATED : 18/02/2015.**

**PC.:**

. Heard learned Counsel for the parties.

2 This Application is preferred by the claimant for withdrawal of amount deposited by the insurance company pursuant to the order passed by this Court on 08.08.2013 in Civil Application no. 2925 of 2013.

3 The learned counsel for the respondent insurance company vehemently opposed the present Civil Application. He submits that the claimant in accident which occurred on 17.09.2011 lost his four fingers. Therefore, as per schedule 1 part 2 Sr. No.7 under Section 2(1) and (4) of Employees Compensation Act, 1923 disability should be 50% only. Whereas, the Tribunal has considered the same of 100%. He further submits that the Tribunal also imposed the penalty on insurance company, which is not payable in view of the Apex Court judgment in

the matter of *Ved Prakash Garg v/s. Premi Devi & Ors. reported in (1997) 8 SCC 1*. On the basis of these submissions, the learned Counsel for the insurance company opposed the present civil application.

4 I heard both the sides at length. In the present proceeding, the Insurance Company preferred civil application no. 2924 of 2013 for condonation of 198 days delay. That application is pending for hearing for want of service on respondent no.2.

5 Considering the submissions made by the learned Counsel for the claimant and averments made in civil application, I am of the opinion that at present the claimant is entitled to withdraw a sum of Rs.5,48,496/- without furnishing any security. The Insurance Company also admitted their liability to that extent, as stated in ground no. 7 of the First Appeal.

6 Liberty granted to the claimant for withdrawal of further amount, if he so desire, after service on all the respondents in civil application 2924 of 2013. In the meanwhile, liberty granted to the applicant to recover the remaining amount from respondent no.2 Bharati Box Manufacturing Company, if he so desire.

7 Hence, the following order.

a) The claimant is entitled to withdraw sum of Rs.5,48,496/- without furnishing any security.

b) Liberty granted to the applicant to prefer appropriate application for withdrawal of further amount, if he so desire, and that application will be decided on its own merits after admission of first appeal.

c) Liberty granted to the claimant to execute the Judgment and Decree dated 08.11.2012 passed by the Commissioner for Workmen Compensation 4<sup>th</sup> Labour Court Thane, in Application (WCA) No. 158/C-35/2012 for remaining amount against original opponent no.1 Bharti Box Manufacturing Co., if he so desire.

d) Civil Application disposed of accordingly.

**(K.K.TATED, J.)**