

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION NO. 2800 OF 2015
IN
FIRST APPEAL NO. 919 OF 2013**

Tushar Pandit Hazare ... Applicant
VS.
New India Assurance Co. Ltd. & Anr. ... Respondents

Mr. M.B. Deshmukh, Advocate for the applicant.
Mr. A.A. Gatne, Advocate for the respondent/original appellant.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE : AUGUST 28, 2015

P.C.:

This Application is moved for withdrawal of the entire amount of Rs.11,38,015/- deposited by the insurance company pursuant to the award dated 30th August, 2012 passed by the Member, Motor Accidents Claims Tribunal, Kalyan in M.A.C.P. No. 179 of 2006

2. The learned counsel for the respondent/insurance company opposed the Application and submitted that the insurance company has good case on merits on law as well as on facts. The original claimant/applicant did not implead driver as a party/respondent, which is necessary and so also there is a challenge in respect of quantum.

3. After going through the Application, it is found that the applicant met with an accident 12 years back, i.e. on 22nd November, 2003 when he was 25 years old. In the accident, he lost his one leg and till today he

has not received any amount except NFL amount. In view of this, the applicant is allowed to withdraw Rs.4,00,000/- on furnishing personal undertaking before the M.A.C.T., Kalyan stating therein that in case the original appellant succeeds in the First Appeal, the applicant will bring back the money. The statutory amount of Rs.25,000/- deposited in this Court is to be transferred to the M.A.C.T., Mumbai.

4. Civil Application is disposed of accordingly.
5. Place the First Appeal for admission on 25th September, 2015.

(MRS.MRIDULA BHATKAR, J.)