

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

**CIVIL APPLICATION NO.1394 OF 2015
IN
FIRST APPEAL NO.557 OF 2015**

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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Ms.Yogita Deshmukh for the applicant
Ms.Varsha Chavan for the respondents

CORAM : K.K.TATED, J.
DATED : 12/06/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by claimant for withdrawal of the amount deposited by the Appellant Insurance Company. In an accident which occurred on 14.2.2008 claimant no.1 Shriram Tathu Kapadnis sustained several injuries. Because of the said accident, he suffered 8% permanent disability.
- 3 The learned counsel for the applicant submits that the claimant is not in a position to drive the truck now and cannot do any work as on today. She relies on certificate issued by Medical Officer Nasik 9.9.2008 to show that the applicant suffered permanent disability. The said certified is on

record as Exhibit 'A' to the present Civil Application. She submits that even the present Civil Application is preferred by his wife as next friend as the claimant is not in a position to move from one place to other. She further submits that it is difficult for the applicant to maintain himself for day to day requirements because of financial crises. She submits that in the interest of justice this Hon'ble Court be pleased to allow the applicant to withdraw the amount deposited by Appellant Insurance Company in the Tribunal. She submits that if the present Civil Application is not allowed, irreparable loss and injury will be caused to the applicant.

4 The learned counsel for the appellant Insurance Company vehemently opposed the present Civil Application. She submits that if amount is withdrawn by the claimant without furnishing any security and in case, the appellant Insurance Company succeeds in the present proceeding, it will be very difficult for them to recover the said amount and hence to withdraw the amount during the pendency of the present proceeding, this Hon'ble be pleased to direct the applicant to furnish solvent security for withdrawal of the amount.

5 I have heard both the sides at length.

6 In the present proceeding, claimant suffered 8% permanent disability due to the accident. He was working as a Driver. Now it is not possible for him to continue to work as a driver.

7 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied that the Applicant has made out a case for allowing them to withdraw some amount. Hence, following order:

a) Applicant claimant is permitted to withdraw 50% amount deposited by the Insurance Company without furnishing any security but subject to outcome of the present First Appeal.

b) Tribunal is directed to invest remaining amount in fixed deposit of any nationalised bank initially for a period of one year and same be continued till the hearing and final disposal of the First Appeal.

c) Civil Application is disposed of accordingly.

(K.K.TATED, J.)