

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

956 CIVIL APPLICATION NO. 2730 OF 2016
IN FA/106/2016

JAVED KHAN NASIRKHAN PATHAN
VERSUS
GOTIRAM BALWANTA BODKHE AND ANR

...
Advocate for Applicant : Deshmukh Mohit R.
AGP for Respondent 2 : S S Patil
...

CORAM : T.V. NALAWADE, J.
DATED : 4th March, 2016.

ORDER :

1. The application is filed by original claimant for permission to withdraw the compensation amount of Rs. 6.64 lakh deposited by the Insurance Company. Interest at the rate of 9% p.a. is also deposited. Both the sides are heard.

2. The learned counsel for Insurance Company has objection to allow the application on following two grounds.

- (i) Two vehicles were involved and there is possibility that there is contributory negligence on the part of injured, and
- (ii) Quantum amount is on higher side.

3) This Court has gone through the reasoning given by the Tribunal. It appears that there were injuries to two legs and extent of permanent disability is given as 43%. In view of the

age of the claimant, the Tribunal has considered future prospectus and on that basis, the loss of future income is calculated. It appears that some amount is given like amount of Rs. 75,000/- for pain and suffering, other amount is given under the heads like loss of amenities, medical expenses which can be considered for permanent disability. Loss of marriage prospectus may not be considered at this stage. But the amount in respect of pain and suffering, loss of future income, medical expenses etc. can be considered in view of the grievance of the applicant. In view of these circumstances, this Court holds that amount of Rs. 5,50,000/- (Rupees five lakh fifty thousand) can be released subject to giving of undertaking by the claimant.

4. So, the application is allowed to that extent. Aforesaid amount is to be released in favour of claimant on giving undertaking. Application is disposed of.

[T.V. NALAWADE, J.]

ssc/