

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

**CIVIL APPLICATION NO.3643 OF 2016
IN
FIRST APPEAL STAMP NO.22607 OF 2014**

Dnyaneshwar Narendra Mahale : Applicant

In the matter between.

The New Indian Assurance Co. Ltd. : Appellant.

versus

Dnyaneshwar Narendra Mahale and anr. : Respondents.

Mr. T J Mendon for the Applicants.

Mr. D R Mahadik for the original Appellant.

CORAM : R. M. SAVANT, J.

DATE : 10th August 2016

P.C.

1 The above Civil Application has been filed for withdrawal of the amount deposited by the Insurance Company i.e. The New India Assurance Co. Ltd in the MACT, Alibag, Dist. Raigad.

2 The Applicant is the original claimant who was injured in the accident in question in which he suffered injuries to the brain and as also to the limbs and right eye. The principal amount awarded by the MACT, Alibag is in the sum of Rs.22,81,401/- with interest at the rate of 7.5% per annum which came to an amount of Rs.35,42,327/- which amount has been deposited by the Insurance Company in the MACT, Alibag.

3 The award passed by the MACT, Alibag is challenged on the ground that the amount awarded is excessive considering the nature of the injuries suffered by the Applicant/Claimant. It is required to be noted that the MACT, Alibag considered the said injuries on the basis that the same amount to 50% disability and considering the yearly income of the Applicant has awarded the said amount of Rs.22,81,401/- as compensation along with interest. The challenge is therefore based on quantum. The Applicant has made the averment in the above Civil Application as regards the treatment which he has taken in various hospitals for which he has stated that he incur expenditure of Rs.9,84,937/-. There is no dispute about the fact that the Applicant has now rejoined service but it is the contention of the learned counsel for the Applicant that he is still suffering from disability.

4 In my view, it would be just and proper to permit the Applicant to withdraw an amount of Rs.10,00,000/- (Rupees Ten lakhs only) with commensurate interest out of the total amount deposited by the Insurance Company. In my view, the balance remaining would be a sufficient buffer for the Insurance Company if it ultimately succeeds in the above First Appeal. Needless to state that the withdrawal would be the subject to the result of the above First Appeal. The balance amount to be invested by the MACT, Alibag in a Fixed Deposit of a Nationalized Bank initially for a period of two years and

thereafter to be renewed for appropriate periods as deemed fit. The above Civil Application is accordingly disposed of.

[R.M.SAVANT, J]