

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

CIVIL APPLICATION NO. 3951 OF 2016
IN
FIRST APPEAL NO. 292 OF 2016

Asim Mohammad Iqbal Shaikh .. Applicant

In the matter between

IFFCO TOKIO General Insurance Co. Ltd. .. Appellant

Vs.

Asim Mohammad Iqbal Shaikh & Anr. .. Respondents

Ms. Varsha Chavan for the Appellant.

Mr. Vishwambhar M. Parkar for Respondent No.1.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 19th SEPTEMBER, 2016.

P. C. :

1. This is an application preferred by the original claimant seeking withdrawal of the amount of compensation as deposited by the Insurance Company in the Tribunal. It is submitted that the applicant has incurred substantial amount of expenditure towards his medical treatment. He is also handicapped in the accident and having no substantial source of income. Therefore, it is submitted that he may be permitted to withdraw the amount of Rs.23,57,000/- deposited by the Insurance Company with interest @ 7% per annum thereon from the date of application till actual realization.

2. Learned counsel for the Insurance Company strongly opposed this application on the count that the Trial Court has not properly assessed the amount of compensation and amount awarded is not exorbitant and excessive having based upon submissions wrongly recorded by the Trial Court. It is urged that if the applicant is allowed to withdraw the entire amount, it will be difficult to Insurance Company to recover the same if ultimately the decision goes in favour of the Insurance Company.

3. At this stage, instead of going into the merits of the claim and the impugned Award passed by the Trial Court, having regard to the substantial expenses incurred by the applicant towards his medical treatment which the Trial Court has observed to be Rs.6,85,000/-, in my considered opinion, it would be just and proper to allow the applicant to withdraw 30% of the amount along with proportionate interest thereon deposited with the Tribunal subject to furnishing usual undertaking but without any security.

4. The Civil Application is disposed of accordingly.

[DR. SHALINI PHANSALKAR-JOSHI, J.]