

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3883 OF 2016
IN
FIRST APPEAL ST.NO.20167 OF 2013

Ajay Dyaneshwar Nikam .. Applicant

In the matter of:

National Insurance Co. Ltd. ..Appellant

-Versus-

Ajay Dyaneshwar Nikam & Anr. ..Respondents

Mr.Atul G. Gatne for applicant
Mr. T.J.Mendon for respondent No.1.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 30th August 2016.

P.C.

1] Leave to amend to correct the address of the respondent No.2, granted. Appellant to give correct address within one week. After correct address is furnished, notice to be issued to respondent No.2, returnable after six weeks.

2] This application is preferred by the original claimant, seeking withdrawal of the compensation amount which is deposited by the

respondent, insurance company with the Tribunal. It is submitted that the applicant has incurred substantial sums towards his medical expenses and as a result the applicant has suffered permanent disability and the applicant is incapacitate to do any work. Therefore, he needs some reimbursement of the amount spent for medical expenses and also for maintainance.

3] Learned Counsel for the respondent – insurance company has opposed the withdrawal of the entire amount of compensation by submitting that there are several issues involved herein, including the correct assessment of the income and also compensation so also the liability for the accident. In view thereof, according to the learned Counsel for the respondent, the application for withdrawal of the entire amount of compensation cannot be granted.

4] A perusal of the appeal memo reveals that in para 15, the respondent has categorically stated that the total amount of compensation cannot exceed Rs.1,56,000/-. Having regard to this aspect and considering the need of the applicant, in my opinion, the applicant needs to be permitted to withdraw certain amount for his maintainance and reimbursement of medical expenses, especially having regard to the fact that hearing and final disposal of the appeal will take

considerable time.

5] Accordingly, this application is allowed. The applicant is permitted to withdraw the amount of Rs.2 lakhs, subject to a condition that he should furnish security to the satisfaction of the tribunal and on furnishing of usual undertaking. The application is disposed of accordingly. The office is directed to transfer the amount of Rs.25,000/- deposited in this Court to the Tribunal at Thane and the Tribunal is directed to invest the said amount in any nationalised bank for an initial period of one year and subsequently to be renewed from time to time till decision of the appeal.

(Judge)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2715 OF 2013
IN
FIRST APPEAL ST.NO.20167 OF 2013

National Insurance Co. Ltd. .. Applicant

In the matter of:

National Insurance Co. Ltd.

-Versus-

Ajay Dyaneshwar Nikam & Anr. .. Respondents

Mr.T.J.Mendon for applicant

Mr. Atul Gatne for respondents

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 30th August 2016.

P.C.

1] Leave to amend to correct the address of the respondent No.2. Leave granted. Appellant to give correct address within one week. After correct address is furnished, notice to be issued to respondent No.2, returnable after six weeks.

(JUDGE)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2716 OF 2013
IN
FIRST APPEAL ST.NO.20167 OF 2013

National Insurance Co. Ltd.

.. Applicant

In the matter of:

National Insurance Co. Ltd.

-Versus-

Ajay Dyaneshwar Nikam & Anr.

..Respondents

Mr.T.J.Mendon for applicant

Mr. Atul Gatne for respondents

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 30th August 2016.

P.C.

1] As per the order passed by this Court on 2nd August 2013, the appellant has deposited the entire amount of award within the stipulated time. In view thereof, ad-interim stay granted to the execution of the award is made absolute till the decision of the appeal. Application is accordingly disposed of.

(JUDGE)