

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3873 OF 2016
IN
FIRST APPEAL NO.386 OF 2016

Mohasin S Pathan and ors Applicants.

In the matter of

Iffco Tokio General Insurance Co.Ltd and
anr Appellants.

Vs

Mohsinkhan Sherjaman Khan Pathan Respondents.

Mr. S. S. Vidyarthi a/w Ms. Divya Menon, for the Applicants.
Mr. Manoj Badgujar, i/by Abhijit P. Kulkarni, for the appellant.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 27TH SEPTEMBER, 2016.

P.C. :

1. This application is filed for withdrawal of the amount of compensation as deposited in the Court. Application is filed by the father of the injured. It is submitted that the injured son of applicant, is totally invalidated on account of accident, suffering from 100% disability. For his son's medical treatment, applicant has to incur substantial expenses and hence applicant may be permitted to withdraw the amount as deposited in the Tribunal.

2. Learned counsel for appellant Insurance company has

opposed the application, on the ground that claim is challenged account of contributory negligence and also on the quantum of compensation particularly on the head of, "loss of earning".

3. However, considering the fact that applicant, who is the father of injured requires substantial amount for the medical expenses of the injured and having regard to the fact that the applicant has filed Cross Appeal for enhancement of compensation and both these appeals are not likely to be heard within short span of time, in the interest of justice applicant as next friend of injured is permitted to withdraw 30% of the total amount deposited by the Insurance Company, in the Tribunal subject to furnishing usual undertaking to the effect that in the event decision goes against applicant, applicant will refund the entire amount with interest accrued thereon.

4. So far as rest of the amount, the Tribunal to invest the said amount in any nominalized bank, initially for a period of two years and thereafter to be renewed from time to time till disposal of the appeal.

5. Application is disposed of accordingly.

[DR. SHALINI PHANSALKAR-JOSHI, J.]