

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.106/2016
IN
FIRST APPEAL NO. 56/2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. K. B. Sonwalkar for Applicant
Mr. C. M. Lokesh i/b. G. S. Hegde for the Respondent
Mrs. Jyoti Bagjpayee for Respondent No.3.

CORAM : K. K. TATED, J.
DATE : JANUARY 20, 2016

P.C.:

1. Heard. This Application is made by the claimant for withdrawal of the amount deposited by the Appellant in the Tribunal.

2. The learned counsel for the Applicant submits that in an accident which occurred on 01/11/2008, he sustained injuries because of which he suffered 40% disability. He submits that considering the evidence on record, the Tribunal awarded sum of Rs.1,37,615/- by way of compensation. He submits that the compensation awarded by the Tribunal is on lower side. He submits that the Applicant may be permitted to

withdraw the amount deposited by the Appellant during pendency of the First Appeal. He submits that the Applicant is facing financial difficulties. If Application is not allowed, irreparable loss will cause to the Applicant.

3. On the other hand, the learned counsel for the Appellant vehemently opposed the Civil Application. He submits that if entire amount is recovered/withdrawn by the Respondent-Claimant, nothing will survive in the present proceedings. He submits that though the Tribunal held that the claimant suffered 40% disability, the claimant failed to examine the Medical Officer and/or Doctor to prove the disability certificate. He submits that the Tribunal has accepted the disability certificate only on the basis of bare statement made by the claimant. He submits that the compensation awarded by the Tribunal is on higher side. He submits that there is no substance in the Civil Application. Same be dismissed with costs.

4. It is to be noted that in the present proceedings in the accident in question, the claimant suffered injuries. The Tribunal, in paragraph 20 of the impugned award, specifically

stated that the claimant suffered fracture to the upper and lower limb, which resulted into certain restrictions on the movement of legs which could last forever. Considering these facts, the Tribunal awarded sum of Rs.2000/- against each percentage of disability as compensation which comes to Rs.80,000/- in total.

5. Considering the reasons disclosed by the Applicant in the Civil Application and perusal of the impugned award, I am of the opinion that the Applicant claimant is entitled to withdraw 50% of the awarded amount deposited by the Appellant in the Tribunal on giving an undertaking to the Tribunal that he would bring back the said amount as and when this court directs him to do so.

6. Hence, following order is passed:

a. The Applicant Shamrao Jagannath Bansode is entitled to withdraw 50% of the awarded amount on an undertaking to the Tribunal that he would bring back the said amount as and when this court directs him to do so.

b. The Tribunal is directed to invest the remaining awarded amount in a fixed deposit account of any Nationalized Bank, initially for a

period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.

c. Civil application stands disposed off accordingly.

JUDGE