

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

921 CIVIL APPLICATION NO. 3108 OF 2017
IN FAST/28405/2016

UTTAM KISAN GHOLAP
VERSUS
THE BRANCH MANAGER, CHOLAMANDALAM GENERAL INSURANCE CO. LTD.

Advocate for Applicants : Mr. Mr. V.R. Autade
Adv. for Respondent No. 1: S. G. Chapalgaonkar

CORAM : K.K. SONAWANE, J.

DATE : 21st September, 2017.

PER COURT:

1] Heard learned counsel for the applicant and learned counsel for the respondent Insurance Company.

2] learned counsel for the applicant submits that the appellant Insurance Company has already deposited the amount of Rs. 21.89,300/- towards compensation awarded by the learned Tribunal and seeks permission to withdraw the same. Learned counsel for the respondent Insurance company vehemently opposed the contentions propounded on behalf of the applicant for withdrawal of the amount, on the ground that the involvement of the vehicle in the alleged vehicular accident is seriously disputed. Moreover, the concerned driver did not possess a valid licence at the relevant time of accident. Learned counsel for the respondent also put in controversy the quantum of compensation determined by the learned Tribunal in this case. Therefore, he fervidly contends that no such amount of compensation should be allowed to be withdrawn by the applicant in this case. Otherwise, it would be difficult to recover the same in case the Insurance Company succeeds in the appeal.

3] I have given anxious consideration to the arguments advanced on behalf of both sides as well as I have delved into the findings expressed

by the learned Tribunal. Admittedly, the applicant original claimant sustained permanent disability in the vehicular accident as alleged by him. The learned Tribunal, after appreciating the circumstances on record, determined the issue and awarded compensation in favour of the applicant. In such circumstances, I do not find it just and proper to deprive the applicant from withdrawing some part of compensation amount. It would be a solace for injuries sustained by him. Hence, I proceed to allow the applicant to withdraw Rs. 10,00,000 (rupees ten lakhs) out of the amount deposited by the Insurance company in this court, subject to condition that the applicant original claimant shall furnish an undertaking to the satisfaction of the Registrar (Judicial) of this Court to the effect that in case adverse situation arises, if any, after adjudication of appeal in favour of the appellant Insurance Company, the applicant original claimant shall refund the amount received by him forthwith.

4] Civil application stands allowed in above terms and same is disposed of.

[K.K. SONAWANE]
JUDGE.

grt/-