

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

931 CIVIL APPLICATION NO. 7320 OF 2017
IN FA/560/2017

SARUBAI KADAJI SHAJRAO
VERSUS
EXECUTIVE ENGINEER, M.S.E.D.C. LTD OFFICE AT JINTUR
ROAD, PARBHANI

...

Advocate for Applicant : Mr. Mayure Pramod C.
Advocate for Respondent No.1 : Mr. D.P. Deshpande.

CORAM : K. L. WADANE, J.

DATE : 21st September, 2017

ORDER:

1. Heard learned counsel for the applicant as well as learned counsel for the respondent.

2. This is an application for withdrawal of amount of compensation deposited by the respondent in this Court. Learned counsel for the respondent opposes the payment of compensation to the claimant on the grounds that, there is delay for about 03 months for filing first information report, secondly; no oral evidence is adduced on behalf of the claimants to establish the whole negligence on the part of the truck driver and thirdly; the quantum of compensation.

3. I have gone through the report submitted by the concerned medical officer to the concerned police station, from which it appears that the factum of the accident was promptly reported to the concerned police station, in which there is reference of the accident between two vehicles.

4. Learned counsel for the applicant/claimant submits that, the respondent has not denied the factum of the accident. Learned counsel for respondent submits that, such defence of the respondent is an alternate defence. Initially, the respondent has denied the factum of the accident.

5. Presently the award is in favour of the applicant and for the reasons recorded in the judgment by the learned Tribunal, at this stage, there is no hurdle to pay at least 50 % amount of compensation to the claimant, since the appellant is contesting the appeal on the ground of quantum also.

6. In such circumstances, the applicant is permitted to withdraw 50 % amount of compensation deposited in this Court, on undertaking that, in the event of adverse orders are passed in the appeal, then she shall deposit the amount of compensation within a period of 12 weeks.

7. Civil Application is disposed of.

(K. L. WADANE, J.)

mkd