

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

910 CIVIL APPLICATION NO. 9439 OF 2017
IN FAST/36361/2016 WITH CA/408/2017 IN FAST/36361/2016

SHANKAR DIGAMBER (KISAN) JIGLE
VERSUS
UNITED INDIA INSURANCE CO. LTD. THR ITS AUTHORIZED SIGNATORY,
AURANGABAD

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Advocate for Applicant : Mr. Pratibha J. Bharad
Adv. for Respondent No. 1: Mr. S.G. Chapalgaonkar
Adv. for Respondent No. 2 : Mr. A.S. Shivpuje

CORAM : K.K. SONAWANE, J.

DATE : 10th August, 2017.

PER COURT:

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

2] The learned Member, MACT, Nanded allowed the claim petition filed by the applicant and directed to pay compensation of Rs. 4,59,800/- jointly and severally by the respondent Nos. 1 and 2 i.e. Insurance Company and owner of the insured vehicle, alongwith other benefits. Being dissatisfied with the order of the learned Tribunal, the Insurance Company has rushed to this Court and preferred First Appeal to redress its grievances.

3] However, pending First Appeal, the appellant insurance company deposited the decretal amount of Rs. 6,60,822/- as directed by this court. By this application, applicant seeks permission to withdraw the compensation amount deposited on behalf of appellant insurance company in this court. Admittedly, the amount awarded to the applicant/claimant is towards the physical disability caused to him in the vehicular accident. The learned trial court appreciated the circumstances on record and passed the

impugned order which is agitated in this appeal.

4] Considering the nature of subject matter, and the fact that the amount of compensation is deposited by the appellant insurance company, I find it justifiable to allow the applicant to withdraw 50% of the amount deposited by the appellant in this court towards some sort of solace for his physical disability in the vehicular accident. It would not cause any prejudice to the insurance company. In contrast, it would sub service the cause of substantial justice. Hence, the application stands partly allowed. The original claimant/applicant is permitted to withdraw 50% of the amount of Rs.6,60,822/- deposited by the appellant in this court, on furnishing undertaking to the satisfaction of the Registrar (Judicial) of this Court. Rest of the 50% amount be kept in a Fixed Deposit in a Nationalized bank till disposal of the appeal or until further orders to that effect. The application for withdrawal is disposed of accordingly.

5] So far as the application for condonation of delay of 32 days in filing the appeal is concerned, it is settled principle of law that while dealing with the application for condonation of delay, a liberal and pragmatic approach should be adopted by avoiding pedantic approach. In such circumstances, the application for condonation of delay is allowed and disposed of. Registry to take requisite steps for further process. On registration of appeal, Admit. Respective parties waive notice. List the appeal for final hearing in due course.

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[K.K. SONAWANE]
JUDGE.

grt/-