

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1226 OF 2017
IN
FIRST APPEAL NO.122 OF 2017

Bharatsingh Kalsingh Paradke	...Applicant
vs.	
Oriental Insurance Company Ltd. & Ors.	...Respondents/ Ori. Appellants

Mr. R.G. Shinde, for the Applicant
Mr. Mehta i/b. KMC Legal Ventrue, for the Respondent/Ori.
Appellant.

CORAM : SHANTANU S. KEMKAR &
M. S. SONAK, JJ.

DATE : JULY 10, 2017

P.C.:

1. Heard learned counsel for the parties on Civil Application No. 1226 of 2017 seeking withdrawal of the award amount. According to the Applicant, the Respondent – Insurance Company has deposited the entire awarded amount. A prayer has been made in the Civil Application to allow the Applicant to withdraw the said amount.

2. We have gone through the impugned award, more particularly para 16 in which the Claims Tribunal has held that both the drivers i.e. driver of the Tempo as also of the Jeep are

equally responsible for the accident. However, in the operative part of the award, the Respondent Nos. 1 to 3 have been made liable to pay jointly and severally the entire amount and there is no reduction to the extent of 50% in regard to the contributory negligence of the Jeep driver.

3. Keeping in view the aforesaid, we are inclined to allow the Civil Application but only to the extent by directing the Claims Tribunal to disburse the amount deposited by the Appellants to the Applicant and Claimant to the extent of Rs. 10 lacs. The rest of the awarded amount shall be invested by the Tribunal in the fixed deposit in a Nationalized bank initially for one year and renewable from time to time.

4. The Applicant to file an undertaking before the Claims Tribunal to the effect that in case if required, the Applicant shall return the said amount within one month.

5. The statutory amount of Rs. 25,000/- deposited by the Appellants to be remitted by the Registry of this Court to the Claims Tribunal for being invested in the fixed deposit.

6. The Civil Application is partly allowed.

(M. S. SONAK, J.)

(SHANTANU S. KEMKAR, J.)