

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 2309 OF 2017
WITH
CIVIL APPLICATION NO. 2310 OF 2017
IN
FIRST APPEAL (ST.) NO. 22804 OF 2017**

National Insurance Company Ltd. ...Applicant

Versus

Kashish Harun Pathan & Anr. ...Respondents

**WITH
CIVIL APPLICATION NO. 3684 OF 2017
IN
FIRST APPEAL (ST.) NO. 22804 OF 2017**

Shri Kashish Harun Pathan ...Applicant

IN THE MATTER OF

National Insurance Co. Ltd. ..Appellant

Versus

Shri Kashish Harun Pathan & Anr. ...Respondents

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Mr.Nikhil Mehta i/b. KMC Legal Venture for the Applicant in CAF
Nos. 2309 and 2310 of 2017.

Mr.T.S.Ingale for Respondent No.1.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATE : DECEMBER 06, 2017**

P.C.:

1. Upon urgent mentioning, taken on Production Board.

CIVIL APPLICATION NO. 2309 OF 2017

2. There is a delay of 46 days in filing the First Appeal.
3. Learned counsel for the applicant submits that there is a delay of 46 days in filing the First Appeal and the same be condoned.
4. Learned counsel for respondent no.1 is present and submits to the order of this Court.
5. In view of uncontroverted submissions, delay is condoned.
6. Civil Application is allowed and is disposed of accordingly.
7. Appeal be numbered.

CIVIL APPLICATION NO. 2310 OF 2017

8. By this Civil Application, the applicant/insurance company seeks stay to the execution and implementation of the impugned judgment and award dated 24th February, 2017 passed by the learned Chairman, Motor Accident Claims Tribunal, Sangli, in M.A.C.P. No. 49 of 2011.
9. Learned Counsel for the applicant submits that the applicant/insurance company has deposited the entire decretal amount alongwith interest accrued thereon.

10. In view of this submission, the execution and implementation of the impugned judgment and award is stayed till the final disposal of the Appeal.

11. Civil Application is allowed and is accordingly disposed of.

CIVIL APPLICATION NO. 3684 OF 2017

12. This Application is moved for withdrawal of an amount deposited by the original appellant pursuant to the judgment and award dated 24th February, 2017 passed by the learned Chairman, Motor Accident Claims Tribunal, Sangli. The learned Chairman has granted compensation of Rs.53,34,286/- alongwith interest @ 8% p.a.

13. Learned counsel for the applicant submits that it is an injury claim. The applicant/original claimant met with an accident on 12th October, 2010. Due to accident, his left hand was crushed and it was subsequently amputated. Now, the applicant wants to buy artificial limb and hence, he be allowed to withdraw the amount of compensation.

14. Learned counsel for the original appellant/insurance company submits that the insurance company has good case on merits. The original appellant/ insurance company challenges the Appeal on the ground of quantum and negligence.

15. By judgment and award dated 24th February, 2017, the learned Chairman of the tribunal has granted compensation of Rs. 53,34,286/- alongwith interest @ 8% p.a. It is further directed that out of the said amount, an amount of Rs. 40 lakhs is to be kept in F.D.R. in the name of claimant for a period of five years and the remaining amount of Rs. 13,09,286/- alongwith interest accrued thereon is to be given to the claimant.

16. In view of the order passed by the tribunal, the applicant is allowed to withdraw 50% of the amount deposited by the appellant/insurance company on an usual undertaking. The remaining amount is to be deposited in the fixed deposit in any nationalized bank.

17. Civil Application is allowed and is accordingly disposed of.

18. The tribunal to act upon an authenticated copy of this order.

(MRIDULA BHATKAR, J.)