

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

1027 CIVIL APPLICATION NO. 3210 OF 2018
IN FA/1112/2017

BHATU SANTOSH PATIL
VERSUS
RANJITSING GULABSING RAJPU AND ORS

...
Mr. Amit S. Savale Advocate for Applicant
Mr. S.S. Patil, Advocate for respondent No. 3

...
CORAM : SUNIL P. DESHMUKH, J.
DATED : 23rd MARCH, 2018.

Order :-

1. Heard learned counsel for the applicant.
2. Learned counsel for applicant submits that the applicant is in need of money and he is suffering various diseases after initial withdrawal had been allowed. He submits that, amputation of leg permanently affected his earning capacity. The applicant was the only earning member in the family. He has been suffering liver ailment and his kidneys are also affected. He tenders across certain documents, which according to him indicate sufferings of ailments by the applicant. He submits that applicant is required to be treated at Mumbai or Pune, since proper medical treatment is not available at Dhule/Aurangabad. Therefore, he urges for withdrawal of the amount deposited by insurer.
3. Mr. Patil, learned counsel for insurance company, however, submits that appellant - insurance company has a strong case on merits and looking at the same, the applicant had been allowed

only to allow withdraw Rs.2,50,000/-.

4. Although this being submission, one may have to give regard to that applicant was the only earning source in his family. Additionally, his father is no more, his requirements for medical treatment at Mumbai or Pune is not disputed. Since the date of accident earning of the family has been disastrously affected. As on the date the award is in favour of applicant/claimant. As such, it would be expedient to allow the applicant to withdraw the amount of Rs.7,50,000/- deposited in this court along with accrued interest on following conditions:

i) Applicant is allowed to withdraw Rs.5,00,000/- with accrued interest from the deposited amount in this court, on condition of furnishing undertaking that claimant shall pay back / re-deposit the amount being withdrawn under this order within a period of three months from the date of decision in appeal, if the decision goes adverse to his interest.

ii) Applicant is allowed to withdraw further amount of Rs.2,50,000/- with accrued interest from the amount subject to furnishing solvent security to the satisfaction of Registrar (Judicial) of this court.

4. Civil application is accordingly disposed of.

Sd/-
[**SUNIL P. DESHMUKH**]
JUDGE

MTK.