

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

CIVIL APPLICATION NO. 4769 OF 2018
IN
FIRST APPEAL (STAMP) NO. 27948 of 2017

Jakir s/o Shabbir Pathan .. Applicant

vs

Cholomandalam M.S. General
Insurance Co. and another .. Respondents

Mr. D. R. Markad, Advocate for applicant
Mr. S. G. Chapalgaonkar, Advocate for respondent no.1

CORAM : SUNIL P. DESHMUKH, J.
DATE : 9th April, 2018

ORDER :

1. Heard learned counsel for the parties.
2. Accident had taken place in the year 2012 wherein the applicant has lost his leg which according to learned counsel for applicant has severely affected his mobility and consequently earning capacity. He had also to bear huge medical expenses which have been tuned down only to Rs.10,00,000/-. He submits having regard to disability

incurred by applicant under the accident, though compensation has been granted by tribunal, it is not adequate. He submits, several responsibilities are to be borne by applicant and family members due to inability to earn are suffering. He, therefore, urges to allow withdrawal of the amount deposited in this court.

3. Learned counsel for respondent no.1 – insurer – appellant in the first appeal, however, submits that compensation granted is on far higher side and evidence on record may not be sufficient for the same. He submits that disability cannot be said to the extent as considered by the tribunal and there is absence of evidence to support the medical bills or medical treatment. He, therefore, submits that the claim for withdrawal of entire amount is unsustainable.

4. Having regard to the circumstances, particularly that applicant having been disabled, hampering his earning capacity and has also to bear medical expenses and responsibilities of his family, it would be expedient to allow the applicants to withdraw fifty per cent of the amount deposited in this court with accruals thereon, on submitting

undertaking to the satisfaction of the Registrar (Judicial) that in the event decision in the first appeal goes adverse to his interest, he would pay back / deposit the amount being withdrawn under this order in this court within a period of three months from date of decision in the appeal. Undertaking to be filed within a period of three weeks from today.

5. Civil application is accordingly allowed and is disposed of.

SUNIL P. DESHMUKH,
JUDGE

pnd