IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 CIVIL APPLICATION NO. 8586 OF 2018
IN FAST/12919/2018

SANGHARSH SURESH SONAVANE
VERSUS
ROYAL SUNDARAM GENERAL INSURANCE CO. LTD., THR ITS AUTHORIZED OFFICER

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Advocate for Applicant :Mr. P.C. Mayure
Advocate for Respondent No.1 : Mr. S.S. Wagh
Advocate for Respondent No.2 : Mr. A.A. Puranik
Advocate for Respondent No.4 : Mr. A.B. Gatne
Advocate for Respondents No.5 and 6 : Mr. Arun S. Shejwal

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CORAM : V.L. ACHLIYA, J.

DATED : 02nd AUGUST, 2018

PER COURT:-

1. The applicant has moved this application seeking permission to withdraw the amount of Rs. 10.58 Lakhs deposited by the appellant – Insurance Company towards satisfaction of the award passed by the Tribunal.

2. Heard the learned counsel for the applicant and respondents. Perused the impugned award passed by the Tribunal.

3. Learned counsel for the applicants submits that the applicant has lost his left hand in the accident and the same was required to be amputated above the elbow. The disability sustained by the applicant to the extent of 80%. He submits that the appeal filed by the appellant – Insurance company is devoid of merits. He further submits that the driver of the Tractor

responsible for the accident had admitted in his written statement the factum of accident and involvement of vehicle. He has only disputed the act of rash and negligent driving. In this background, the learned counsel submits that there is no merit in the appeal and urged to allow the applicant to withdraw the amount.

4. On the other hand, the learned counsel for the appellant – Insurance Company opposed the application with the contention that the appellant has good case to succeed in appeal. He submits that the vehicle insured with the appellant – Insurance Company shown to be involved in the accident after two months of the incident and lodging of complaint. He submits that in order to any how get the claim, acting hand in gloves with the owner and the driver of the offending vehicle the Tractor in question has been shown involved in the accident by this applicant. In this background, the learned counsel submits that in case, the application is allowed, it will be difficult to recover the amount .

5. On due consideration of the submissions advanced in the light of the challenge raised in the appeal, I am of the view that passing of following order would meet the ends of justice :-

ORDER

[i] Subject to outcome of the appeal, the applicant is permitted to withdraw the amount to the extent of 25% of the amount deposited by the appellant – Insurance Company on furnishing undertaking to the satisfaction of the Registrar (Judicial) to the effect that in the event the award passed by the Tribunal is set aside or modified by this Court, the applicant shall re-deposit the amount, within twelve weeks from the date of such order.

[ii] On furnishing undertaking mentioned above, the amount be paid to the applicant by transferring the amount in the savings bank account of applicant within eight weeks from the date of furnishing particulars of the savings bank account.

[iii] The balance amount be invested in a fixed deposit initially for a period of eighteen months with State Bank of India, High Court Branch, Aurangabad, with standing instructions to renew the same after interval of every eighteen months till the disposal of the appeal or further orders from this Court, whichever is earlier.

[iv] Interest accrued over the amount invested in fixed deposit shall be paid to the applicant after every three months by transferring the amount of interest in his savings bank account on condition that in case, the award passed by the Tribunal is set aside or modified by this Court, the applicant shall re-deposit the amount of interest within twelve weeks from the date of such order.

[iv] The application is disposed of in the aforesaid terms.

(V.L. ACHLIYA)
JUDGE

SPR