

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 12412 OF 2017
IN FA/3010/2017

PARUBAI PRAKASHRAO UBALE
VERSUS
BAJAJ ALLIANZ INSURANCE CO. LTD, THR ITS MANAGER,
AURANGABAD AND ANR

...
Mr. P.S. Agrawal, Advocate for applicant
Mr. Mohit R. Deshmukh, Advocate h/f Mr. S.G. Chapalgaonkar,
Advocate for respondent no.1
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 06-04-2018

ORDER :

1. Heard learned counsel for applicant and learned counsel appearing for appellant - insurer.

2. In the accident on 01-03-2012, the applicant had suffered fractures to her right wrist, right ankle joint and claims to have suffered permanent injuries. Applicant in the process claims, injuries have affected her earning capacity. Claim for compensation has been vindicated according to learned counsel for applicant under award of the tribunal to the tune of Rs. 1,04,000/- with interest thereon at the rate of 7% per annum from the date of application.

3. Learned counsel appearing for the appellant - insurer, however, submits that it may not be said that at the time of occurrence of accident, the vehicle had been insured and liability is incurred by appellant. Evidence would show that the accident had occurred before vehicle had been insured.

4. *Although* it is being so submitted, as on date, tribunal has granted claim of the applicant. The accident had taken place in 2012. Since then, the applicant has not received any amount. She had expended over medical treatment and her vocation has been affected. There is no dispute that applicant had been doing labour work.

5. Learned counsel for the applicant further requests for transfer of amount deposited in this court with accrued interest, to lower court, to facilitate withdrawal by applicant.

6. In the circumstances, it would be expedient to allow applicant to withdraw amount deposited in this court with interest thereon, upon transfer of said amount, to the lower court, on furnishing undertaking by applicant before the lower court that the amount so withdrawn would be paid back / re-deposited by her in the lower court within a period of three months from date of

decision in the appeal, if the same goes against the applicant.
Undertaking to be filed within a period of three weeks from today.

7. Civil application accordingly is disposed of.

[SUNIL P. DESHMUKH]
JUDGE

arp/