

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

CIVIL APPLICATION NO. 424 OF 2017
IN FA/2886/2015

SITARAM PITA CHAVAN
VERSUS
THE NEW INDIA ASSURANCE CO. LTD. THR RAVIKANT
RAJENDRAPRASAD YADAV AND ANR

...
Advocate for Applicant : Mr. Kishor C. Sant.
Advocate for Respondent No.1 : Mr. S. S. Rathi (Absent).
Advocate for Respondent No.2 : Mr. S. D. Hiwrekar.
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CORAM : K.K. SONAWANE, J.

DATED : 22nd JUNE, 2018.

Order :-

1. Heard Mr. Sant, learned counsel for applicant-original claimant and Mr. Hiwrekar, learned counsel for respondent No.2 – driver of the offending vehicle. No one else appeared for respondent No.1. Perused the application and other relevant documents.
2. It has been submitted that the applicant had moved present application on earlier occasion for withdrawal of compensation amount. But, this Court has passed the order to go for final hearing of the appeal on merit instead of any order for withdrawal of the decretal amount. Due to the delay, the appeal could not be heard and same is still pending for final hearing on merit. The learned counsel for applicant submits that the applicant is the senior citizen, who lost his son in the year 2006 in vehicular accident. The claim petition of compensation was pending since the year 2010. In such circumstances, learned counsel for applicant-original claimant requested to grant some sort of latitude by making payment of compensation to the applicant-original claimant.

3. The learned counsel for respondent- Insurance Company and the owner raised objection and insisted for final hearing of the appeal on merit.

4. In view of submission on behalf of both sides, I find force in the contentions put forth on behalf of applicant-original claimant. Admittedly, the applicant is the senior citizen. The matter pertains to the compensation for death of son of the applicant caused in vehicular accident. The Tribunal has appreciated the evidence on record and awarded compensation to the claimant. Pursuant to the order of learned Tribunal, the appellant - Insurance Company deposited the total sum of Rs. 8,96,829/- (Rs. Eight Lakh Ninety Six Thousands Eight Hundred Twenty Nine Only) in this Court. Considering the attending circumstances on record, I find it justifiable to allow the applicant-original claimant to withdraw atleast 50% of the compensation amount deposited in this Court on certain terms and conditions. Hence, application deserves to be allowed partly.

5. Therefore, application stands allowed partly. The applicant-original claimant is hereby permitted to withdraw 50% of the amount of compensation deposited in this court on furnishing undertaking to the effect that the applicant-original claimant would refund the amount so withdrawn in case of any contingency arises in the appeal. Rest of the decretal amount deposited in this Court be invested in Fixed Deposit Receipts account in any Nationalized Bank for a period of two years or till decision of the present appeal, whichever is earlier and same be renewed in future if required. The Registry to do the needful for disbursement of the amount as mentioned above. The application stands disposed in above terms.

[K. K. SONAWANE]
JUDGE

rrd.