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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL No. 753 OF 2017
WITH
CIVIL APPLICATION No. 2330 OF 2017
WITH
CIVIL APPLICATION No. 1354 OF 2018

Iffco Tokio General Insurance Co. Ltd. ... Appellant
Vs.
Dr. Asif Yusuf Dalwai & Anr. ... Respondents

Ms. Varsha Chavan, for the Appellant, for Applicant in CAF. 2330/2017,
and for Respondent in CAF. 1354/2018.

Ms. Sangeeta S. Salvi, for the Respondent No. 1 in the appeal & CAF.
2330/2017 and for Applicant in CAF. 1354/2018.

CORAM : V. M. DESHPANDE, J.

DATE : JUNE 20, 2018

PC :-

First Appeal No.753 of 2017

1. **Admit.** Learned counsel waives service for the Respondent No.1. Call for Record and Proceedings.

Civil Application No. 1354/2018

2. This is application for withdrawal of the amount deposited by Insurance Company. Heard learned counsel for the parties. The appeal is filed against the judgment and order in Motor Accident Claim Petition No.245 of 2014 dated 1/9/2016. The petition

filed on behalf of the claimant/applicant for compensation under section 166 was allowed and the opponents therein including the insurance company was directed to pay Rs.7,90,000/- including no fault liability compensation with interest @ 8% p.a. The applicant has suffered injury in the accident. According to the learned counsel, applicant/claimant has suffered 35% permanent partial disability and 100% functional disability.

3. It is not in dispute that applicant has suffered injury in the accident. In that view of the matter, in the interest of justice this application is required to be allowed in part. According, I pass following order:

ORDER

- i) Application is allowed in part;
- ii) Applicant/claimant is entitled to withdraw 50% of the amount deposited by the insurance company on he giving an undertaking at the time of withdrawal that in case judgment goes against him he shall refund the amount with interest which will be calculated at that time;
- iii) Applicant will be at liberty to file appropriate application, if occasion arise by pointing out the necessity for withdrawal of the further amount;
- iv) The Motor Accident Claims Tribunal, Thane shall invest the remaining amount with any nationalized bank in Fixed Deposit Receipt initially for a period of 3 years and thereafter it shall be renewed year after year to save the loss of interest;

- v) The statutory amount of Rs.25,000/- which is deposited at the time of filing of the appeal shall also be invested by the Registry in the Fixed Deposit Receipt with any Nationalized Bank to save loss of interest;
- vi) Application is disposed of with no costs.

Civil Application No.2330 of 2017

4. This application is for stay. Heard learned counsel for the appellant and claimant. Today appeal is admitted by this Court after hearing the parties and also application for withdrawal of the amount filed by claimant is allowed in part. The appellants have already deposited entire amount. In that view of the matter there shall be stay to the execution and operation of the award dated 1/9/2016 passed by the learned Member, MACT, Thane in MACT Application No.245/2014. Application is allowed and disposed of.

Sd/-
[V. M. DESHPANDE, J.]