

Sarnobat

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 2182 OF 2018
IN
FIRST APPEAL NO. 875 OF 2016**

Ulhas Shankar Kamble. ... Applicant

IN THE MATTER OF

New India Assurance Co. Ltd. ... Appellant.

Vs.

Ulhas Shankar Kamble & Anr. ... Respondents.

Ms. Varsha Chavan, for the Applicant in CAA No. 2182/2018
Mr. Sandeep S. Jinsiwale, for the Respondents In CAA No. 2182/2018.

CORAM : V. M. DESHPANDE, J.

DATE : 5th JULY, 2018.

P. C. :

1. This is an application for withdrawal of amount. The present application is moved by original claimant. Heard Smt. Varsha Chavan for the applicant/original claimant and learned counsel for respondent- New India Assurance Co. Ltd.

2. From the Judgment delivered by the learned Judge of the Court below on 16th October, 2015 in Petition No. 2000 of 2008 it can be gathered that the injured was admitted in Bombay Hospital on 11th November, 2007 and he sustained injuries in the nature of liver

laceration involving segment 7,8, 4 and 1. His urinary bladder was also ruptured and the treating doctor also found various fractures. According to the findings recorded by the learned Judge of the Court below, the applicant/injured has suffered disability to the 40% extent. After appreciation of the findings the learned Court below partly allowed the claim petition and directed the Insurance Company and the opposite party in the said Petition to pay Rs. 4,06,500/- inclusive of NFL along with interest at the rate of 7.5 % per annum.

3. There is no dispute between the parties before me that in view of the award passed by the Court, the Insurance Company has deposited the entire amount along with the interest.

4. After hearing the parties to this application, I proposed to pass the following order in the interest of justice;

ORDER

I) The application is partly allowed.

II) The applicant/injured Ulhas Shankar Kamble will be entitled to withdraw 50% of amount deposited by the Insurance Company before Court below and he shall give undertaking before the said Court that in case if the appeal filed by the Insurance Company is allowed by this Court in that event, he shall refund the withdrawal amount along with interest which

shall be determined by this Court at the time of final hearing within a period of one year from the date of judgment.

- III) The applicant shall be at liberty to move the application for further withdrawal after two years by pointing out the need.
- IV) The remaining 50% amount shall be invested by the Court below in any Nationalized Bank initially for a period of 3 years and shall continue to do the same in order to save loss of interest.
- V) The application is disposed of.

[V. M. DESHPANDE,J.]