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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1686 OF 2018
IN
FIRST APPEAL NO. 273 OF 2018

Narayan Dadu Temgude .Applicant

Vs.

Bharti Axa General Insurance Co. Ltd. .Respondent

Mr. U. B. Nighot, Advocate, for the Applicant
Mr. Rahul Mehta, Advocate, for the Respondent

CORAM : V.M.DESHPANDE, J.

DATE : 11.07.2018

P.C.

. This is an Application for withdrawal of the amount. The Application is moved by the Original Claimant. Learned Member, Motor Accident Claims Tribunal, Pune in M. A. C. P. No. 215 of 2016 on 03.10.2017 has directed the opponents therein to pay jointly and severally Rs. 60,65,280/- alongwith interest @ 9% p. a..

2. According to the learned counsel for the Applicant and the learned counsel for the Respondent – Insurance Company, the Insurance Company has deposited Rs. 70,95,079/- before the Court below in view of the Order passed by this Court in CAF No. 758 of 2018 for stay.

3. Learned counsel for the Insurance Company is also heard on this Application. From the Memo of Appeal, as filed by the Insurance Company even according to the Insurance Company, the Applicant is entitled for compensation of Rs. 28,79,492/-.

4. At the relevant time, the Applicant was working as driver and as per the evidence, it is crystal clear that he has lost eye sight of both his eyes and is unable to perform his duty as driver. At the time of accident, the Applicant was only aged 50 years.

5. Since the Applicant is entitled for about Rs. 29,00,000/- even according to the Insurance Company, in the interest of justice I pass the following order.

O R D E R

(i) The Application is partly allowed;

(ii) Presently, the Applicant will be entitled to withdraw an amount of Rs. 39,00,000/- from and out of the amount so deposited before the Court on Applicant giving an undertaking before the said Court that in case, the Appeal filed by the Insurance Company is allowed, then in that event, the Applicant will refund the amount which he has withdrawn alongwith the interest which shall be determined by this Court within a period of three years from the date of the Judgment of this Court;

(iii) The remaining amount shall be invested by the Court below in any Nationalized Bank initially, for a period of three years and shall continue to do the same to save loss of interest;

(iv) The Application is disposed of.

(V.M.DESHPANDE, J.)