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

**CIVIL APPLICATION NO. 1450 OF 2018
IN
FIRST APPEAL NO. 479 OF 2018**

Mr. Nikhil Divakar Upadhyay .. Applicant

In the matter between

Bajaj Allianz General Insurance Co. Ltd. .. Appellant

Vs.

Mr. Nikhil Divakar Upadhyay .. Respondent

Mr. T. J. Mendon for the Applicant.

Mrs. Yogita Deshmukh Chitnis for the Appellant-Insurance Company.

CORAM : K. K. SONAWANE, J.

DATE : 10th AUGUST, 2018.

P. C. :

1. Heard learned Counsel for applicant-original claimant and learned Counsel for appellant-Insurance Company.
2. The applicant-original claimant moved the present application seeking permission to withdraw compensation amount of Rs.13,59,530/- deposited before the M.A.C.T., Raigad-Alibag in M.A.C.P. No.78 of 2014. Learned Counsel for the appellant-Insurance Company raised objection that the learned Trial Court did not appreciate the nature of the injury and the loss of income caused to the claimant due to physical disability. The learned M.A.C.T. awarded exorbitant and excessive compensation amount in favour of applicant-original claimant. Therefore, learned Counsel

requested not to allow the applicant-original claimant for withdrawal of the amount and place the proceeding of appeal for final hearing on merit at the earliest.

3. Admittedly, the applicant-original claimant suffered injury in the vehicular accident. The medical expert classified the injury as 39% physical disability. The Trial Court appreciated entire evidence on record and thereafter granted compensation amount.

4. In view of nature of subject matter and the findings expressed by the learned Trial Court, I do not find any impediment to allow the applicant-claimant for withdrawal at least 50% of the amount of compensation deposited before the M.A.C.T., Raigad-Alibag. Definitely, it would subserve the purpose to provide some sort of solace to the applicant-claimant who is pursuing the claim petition since 2014.

5. Accordingly, the application stands allowed partly.

6. The applicant-original claimant is hereby permitted to withdraw lumpsum amount of Rs.6.50 lakhs from the compensation amount deposited before the learned M.A.C.T., Raigad-Alibag in M.A.C.P. 78 of 2014 subject to condition that the applicant-original claimant shall furnish undertaking that he would refund the amount so withdrawn, if any contingency arises in the appeal. Rest of the balance decretal amount remained deposited before the M.A.C.T., Raigad-Alibag be deposited in FDRs in any nationalized bank for a period of two years or till the decision of the appeal whichever is earlier with liberty to renew FDR in future, if

required.

7. The Registrar of the M.A.C.T., Raigad-Alibag to take requisite steps for disbursement of the amount as directed in favour of the applicant-original claimant and forward the compliance report to this Court.
8. The Civil Application stands disposed of accordingly.

Arjun Machhindra Kadam	Digitally signed by Arjun Machhindra Kadam Date: 2018.08.16 11:47:35 +0530	[K. K. SONAWANE, J.]
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