

Sarnobat

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

**FIRST APPEAL NO.06 OF 2017
ALONGWITH
CIVIL APPLICATION NO.22 OF 2017
ALONGWITH
CIVIL APPLICATION NO.3160 OF 2017
ALONGWITH
CIVIL APPLICATION NO.689 OF 2018**

United India Insurance Co. Ltd.	..Appellant.
Vs.	
Mr.Sameer Shridhar Nar & Anr.	..Respondents.

Mr.Rahul Mehta I/by KMC Legal Venture for the Appellant in FA No.6 of 2017 and for the Applicant in CAF No.22 of 2017 and CAF No.3160 of 2017.

MR.S.K. Ashraf Patel I/by Mr.A.P. Avhad for the Applicant in CAF No.689 of 2018 and for the Respondent in FA No.16 of 2017, CAF No.22 of 2017 and CAF No.3160 of 2017..

CORAM : V.M. DESHPANDE, J.

DATE : 5th JULY, 2018.

P. C. :

1. Heard the learned counsel for appellants. In view of the grounds raised in the memo of appeal, appeal is **admitted**.

CIVIL APPLICATION NO. 22 OF 2017.

2. This is an application for stay. By this application, the applicant Insurance Company is praying that the effect and operation of judgment and award dated 18th June, 2016 passed by M.A.C.T. in

Application No. 193 of 2011 be stayed.

3. This Court today has admitted the appeal. The applicant Insurance Company has already deposited the entire amount as per directions given by this Court on 4th January, 2017. In that view of the matter, I allow this application and there shall be stay to execute the judgment and award passed by Court below which is impugned in the appeal. Application is disposed of.

4. Mr. Patel, learned counsel for respondents waives service for the claimant. The presence of respondent No. 2 is dispensed with.

CIVIL APPLICATION NO.3160 OF 2017.

5. In this application, learned counsel for applicant states that he is not pressing this application. Hence, the application is disposed as not pressed.

CIVIL APPLICATION NO. 689 OF 2018.

6. This is an application for withdrawal of the amount filed by the claimant. Heard Mr. Patel for the applicant/appellant and Shri Rahul Mehta for United India Assurance Company Limited. The applicants/claimants filed a claim pending before the MACT Mumbai. The same was registered as Claim Application No. 193 of 2011. The application was contested by the Insurance Company and by the judgment dated 18th June, 2016 the learned Judge of the Court below granted

compensation to the tune of Rs.43,47,000/- along with simple interest at the rate of 9% per annum.

7. The learned counsel for the Insurance Company has stated that in view of the order passed by this Court on 4th January, 2017 (Coram : Shri M.S. Sonak, J.) the Insurance Company has deposited entire amount along with the interest.

8. From the judgment it is clear that the applicant has sustained 100% occupational disability though the permanent partial disability is assessed at 65%. The learned Judge also recorded a finding that the applicant is required to pay Rs.7,60,000/- towards medical treatment and also found that in future the applicant will be requiring about Rs.4,00,000/- for his medical expenses. It is also seen that due to permanent loss, the applicant will not be able to earn.

9. The appeal is mainly admitted on the ground of quantum. In that view of the matter I am of the view that following order at this stage would meet ends of justice.

ORDER

I) Application is partly allowed.

II) The applicant/claimant shall be entitled to withdraw 50% of amount deposited by Insurance Company before the Court below.

II) At the time of withdrawal of the amount, the

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applicant shall give an undertaking that in case the appeal filed by the Insurance Company is allowed by this Court, in that event applicant shall refund the amount along with interest that will be determined by this Court while deciding the appeal filed by Insurance Company within a period of two years from the date of disposal of appeal.

III) The applicant is also at liberty to move the application to withdraw the amount further, after a period of two years.

IV) The remaining amount shall be invested by the Court below in any Nationalized Bank initially for a period of 3 years and shall continue to renew the same.

V) In view of this application is disposed of.

[V.M. DESHPANDE, J.]