

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

**CIVIL APPLICATION NO. 2370 OF 2018  
IN  
FIRST APPEAL NO. 837 OF 2018**

Vijay Rasiklal Sheth ... Applicant

*In the matter between*

Municipal Corporation of Greater Mumbai ... Appellant

Versus

Vijay Rasiklal Sheth ... Respondent

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Mr. Nitesh V. Bhutekar for Applicant.

Mr. Shailendra Pathak a/w Mrs. M. R. Bhoir for Respondent.

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**CORAM : K. K. SONAWANE, J.**

**DATE : 27<sup>th</sup> JULY, 2018.**

**P. C.:**

1. Heard learned Counsel for the applicant-original claimant and the learned Counsel for the respondent-Corporation.

2. The applicant-original claimant preferred the present application seeking permission to withdraw the amount of Rs.60,26,896/- deposited before the M.A.C.T., Mumbai in Application No. 828 of 2008. Learned Counsel for the applicant submits that the applicant-original claimant is the victim of

vehicular accident and he suffered physical disability upto 70%, which caused loss and hardship to the applicant – original claimant. The Tribunal has considered all the attending circumstances on record and granted compensation amount, and same has been deposited by the appellant - civic authority before the M.A.C.T. Mumbai.

3. Learned Counsel for the appellant-civic authority vehemently submits that the learned Member of the M.A.C.T. did not appreciate the circumstances on record in its proper perspective and committed error. The occurrence of vehicular accident shown in the impugned petition appears to be suspicious and doubtful. The Tribunal awarded exorbitant and excessive amount of compensation in this case. Hence, learned Counsel for the appellant requested not to allow the applicant-original claimant for withdrawal of compensation amount till final decision of the present appeal on merit.

4. Having given anxious consideration to the arguments advanced on behalf of both sides, I am not inclined to nod in favour of appellant-civic authority for precluding the applicant-

original claimant for withdrawal of compensation amount deposited before the Tribunal on behalf of Corporation – civic authority, being owner of the offending vehicle. Admittedly, the applicant-claimant was the victim of the vehicular accident. He has suffered serious injuries to the extent of 70% physical disability. In such circumstances, it would just and proper to allow the applicant-claimant to withdraw at least 50% of the compensation amount deposited before the M.A.C.T. Mumbai. It would not cause any injustice to the appellant-civic authority. In contrast, it would subserve the purpose to provide some solace to the applicant-original claimant. Therefore, application deserves to be allowed.

5. In the circumstances, civil application is partly allowed. The applicant-original claimant is hereby permitted to withdraw 50% of the compensation amount deposited on behalf of appellant-civic authority before the M.A.C.T. Mumbai in Application No. 828 of 2008, subject to condition that the applicant-original claimant shall furnish undertaking that he would refund entire amount of compensation so withdrawn, forthwith, in case any contingency arises in the proceeding of the appeal. Rest of the 50% of the

balance decretal amount deposited before the M.A.C.T. be invested in FDR account in any nationalised bank for a period of two years or till decision of the present appeal, whichever is earlier, with liberty to renew the FDR, if required, in future.

6. The Registrar of the M.A.C.T. to do the needful for disbursement of amount in favour of the applicant as directed above.

7. Accordingly, civil application stands disposed of in above terms.

( K. K. SONAWANE, J.)

Shridhar  
Marutirao  
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