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

**CIVIL APPLICATION NO. 2666 OF 2018
IN
FIRST APPEAL (STAMP) NO. 20331 OF 2018**

Mr. Ameen Anul @ Ainul Khan .. Applicant

In the matter between

Shriram General Insurance Co. Ltd. .. Appellant

Vs.

Mr. Ameen Anul @ Ainul Khan & Anr. .. Respondents

Mrs. Rina Kundu for the Applicant.

Mr. Nikhil Mehta I/b KMC Legal Venture for Appellant

CORAM : K. K. SONAWANE, J.
DATE : 10th AUGUST, 2018.

P. C. :

1. Heard learned Counsel for applicant-original claimant and learned Counsel for respondent-Insurance Company. Perused application and other documents produced on record.
2. The applicant-original claimant preferred present application seeking permission to withdraw compensation amount of Rs.10,26,028/- deposited before the learned Commissioner for Employees Compensation, Thane in Application (WCA) No. 55/C-10/2015. Learned Counsel for respondent-Insurance Company raised objection and submits that the Insurance Company has already preferred appeal and put in controversy the employer-employee relation of applicant and respondent No.2-owner of the vehicle. He has also submitted that the Trial Court has granted

exorbitant and excessive amount and therefore he requested not to allow the applicant-claimant to withdraw the amount.

3. In view of submission on behalf of both the sides and the findings of the learned Trial Court, I find it justifiable to allow the applicant to withdraw 50% of the amount deposited before the learned Trial Court. It would subserve the purpose to provide some sort of solace to the applicant-claimant. Therefore, the application deserves to be allowed.

4. Accordingly, the Civil Application stands allowed partly.

5. The applicant-original claimant is hereby permitted to withdraw lumsup amount of Rs.5 lakh from the compensation amount deposited before the learned Trial Court in the present matter subject to condition that the applicant-original claimant shall furnish undertaking that he would refund the entire amount so withdrawn forthwith in case any contingency arises in the appeal. Rest of the balance amount remained deposited before the Commissioner for Employees Compensation, Thane be deposited in FDRs in any nationalized bank for a period of two years or till decision of the appeal whichever is earlier with liberty to renew FDR in future, if required.

6. The Civil Application stands disposed of accordingly.

7. The Registrar of the Trial Court to take requisite steps for disbursement of the amount as directed in favour of the applicant-original claimant and forward compliance report to this Court.

Arjun
Machhindra
Kadam

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by Arjun
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Date: 2018.08.20
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[K. K. SONAWANE, J.]