

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

**CIVIL APPLICATION NO. 1346 OF 2018
IN
FIRST APPEAL NO. 139 OF 2006**

Titus Jose	... Applicant
<i>In the matter between</i>	
The New India Assurance Co. Ltd.	... Appellant
Versus	
Titus Jose and another	... Respondents

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Mr. Roshan S. Tanna, Advocate for the Applicant.

Ms. S. S. Dwivedei, Advocate for the Respondent-Orig.Appellant.

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CORAM : A. S. CHANDURKAR, J.

DATE : 5th DECEMBER, 2018.

P. C.:

1. By this application, it is prayed that the applicant be permitted to withdraw further amount of compensation as deposited by the original appellant. In the application it is stated that earlier, he was permitted to withdraw an amount of Rs.6,00,000/- without furnishing any security. Thereafter, on 17th September, 2007 the prayer for withdrawing an additional sum of Rs.13,00,000/- was granted, but on furnishing security/surety. By subsequent order dated 25th November, 2010 the liberty was granted to apply for modification of that order.

2. In the application, it is stated that the applicant is suffering from 50% disability and is required to undergo treatment regularly. Medical certificate to that effect is placed on record. It is thus prayed that further amount permitted to be withdrawn.

3. The application is opposed by the learned Counsel for the appellant on the ground that the permission was granted earlier to withdraw Rs.13,00,000/- after furnishing security but that amount has not been withdrawn. If the amount is permitted to be withdrawn the interests of the appellant would be prejudiced.

4. Considering the fact that, period of more than ten years have elapsed from passing of the earlier order and in the light of the medical certificate placed on record the applicant is permitted to withdraw an amount of Rs.5,00,000/- by filing undertaking within a period of six weeks that in case the appeal as filed is allowed, the amount so withdrawn shall be repaid with interest at such rate the Court may direct.

5. The civil application is disposed of.

(A. S. CHANDURKAR, J.)