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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 2566 OF 2016
IN
FIRST APPEAL (St.) No. 12050 OF 2016
WITH
CIVIL APPLICATION (St.) No. 34010 OF 2017

United India Insurance Co. Ltd. ... Appellant
Vs.
Waman Hari Aware & Anr. ... Respondents

Mr. Ketan Joshi, for the Appellant, and for Applicant in CAF,
2566/2016, & for Respondent in CAFST. 34010/2017.

Mr. Tushar Sonawane, for the Respondent in CAF. 2566/2016,
FAST. 12050/2016, and for Applicant in CAFST. 34010/2017.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 4, 2018

PC :-

CIVIL APPLICATION No. 2566 OF 2016

1. This is an application filed by United India Insurance Co. Ltd. for condonation of 77 days delay caused in filing the first appeal, challenging the judgment and award dated 12.10.2015 passed by the Tribunal in MACP No. 50 of 2013.

2. Heard the learned counsel for the Applicant and the counsel for Respondent No. 1. Though notice is duly served, none present for Respondent No. 2. Though learned counsel for Respondent No. 1 strongly opposed the application, for the reasons stated in the application, the said delay is condoned. Civil Application No. 2566 of 2016 is accordingly allowed and disposed of in terms of prayer clause (a). Office to register first appeal.

CIVIL APPLICATION (St.) No. 34010 OF 2017

3. This application is filed for withdrawal of the amount by the original claimant Waman Hari Aware, who suffered injury in the accident. Learned Tribunal by an impugned judgment and award dated 12.10.2015 passed in MACP No. 50/2013 directed insurance company to pay compensation of Rs.13,45,935/- which includes no fault liability with interest @ 7% per annum. Heard the learned counsel appearing for the respective parties. The Appellant insurance company has deposited the entire amount before the learned Tribunal at Niphad. Learned Tribunal

has recorded a finding that Applicant has suffered permanent physical disability to the extent of 45%.

4. It is also found by the learned Tribunal that Applicant has incurred Rs. 5,70,935/- towards medical expenses.

In that view of the matter, following order is passed:

- (i) Applicant is entitled to withdraw 50% of the amount deposited by the Respondent insurance company before the learned Tribunal at Niphad. At the time of withdrawal of the said amount, Applicant shall give an undertaking that in the event Appellant succeeds in the appeal, he will refund the amount with interest, which will be determined by the Court at that time.
- (ii) Learned Tribunal shall invest remaining 50% amount of the award in any nationalised bank, initially for a period of three years, and continue to renew the same as and when occasion arises;
- (iii) Applicant / original claimant is at liberty to apply for

further withdrawal of the amount after three years,
if he is able to demonstrate the hard pressing
necessity for the money.

- (iv) Civil Application (St.) No. 34010 of 2017 is partly
allowed in the aforesaid terms.

Sd/-
[V. M. DESHPANDE, J.]

Vinayak Halemath