

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

**CIVIL APPLICATION NO. 1678 OF 2018
IN
FIRST APPEAL (ST.) NO. 8538 OF 2017**

Nagnath Haridas Kare ... Applicant

IN THE MATTER BETWEEN

Universal Sampo General Insurance Co. Ltd. ... Appellant

V/s.

Nagnath Haridas Kare & Anr. ... Respondents

Mr. Nikhil Mehta i/b KMC Legal Venture for the Appellant.

Mr. R.S. Alange for Respondent No.1 and Applicant in CAF/1678/18.

CORAM : K.K. SONAWANE, J.

DATE : 14th AUGUST, 2018.

P.C. :

1 Heard learned Counsel for the applicant-original claimant and the learned Counsel for Appellant-Insurance Company. Perused the application and the relevant documents produced on record including the findings expressed by the learned Tribunal. The applicant-original claimant preferred the present application seeking permission to withdraw the compensation amount deposited before the M.A.C.T. Solapur in M.A.C.P. No.29 of 2014. The learned Counsel for the appellant-Insurance Company raised the objection and submits that the learned Tribunal did not appreciate

the evidence on record in proper manner and erroneously awarded the exorbitant and excessive compensation amount. The income of the applicant-claimant determined by the Tribunal is incorrect and based on the surmises and conjuncture. The learned Counsel for the Insurance Company requested not to allow the applicant-claimant to withdraw the amount but the appeal be listed for final hearing on merit.

2 Having considered the rival submissions on behalf of both sides, I find it justifiable to allow the applicant-claimant to withdraw atleast 50% of the compensation amount in the interest of justice for the applicant-claimant, who sustained the serious physical injury resulting into physical disability. He was the driver by profession and due to the injury caused to him in vehicular accident, there was a pecuniary loss to the applicant-claimant. In such circumstances, I find it justifiable to allow the application for withdrawal of the compensation amount partly. Accordingly, applicant-original claimant is hereby permitted to withdraw 50% of the compensation amount which accrued to Rs.12 lakhs approximately from the compensation amount already deposited before the M.A.C.T. Solapur in M.A.C.P. No.29 of 2014 subject to condition that the applicant-claimant shall furnish the undertaking that he would refund the entire amount so withdrawn forthwith in case any contingency arises in the appeal. The rest of the balance decretal

amount remain lying in the M.A.C.T. Solapur in this matter be invested in any nationalized bank in F.D.R. account for a period of two years or till decision of the appeal on merit whichever is earlier with liberty to renew the F.D.R. in future if required.

3 The Registry of the M.A.C.T. Solapur to take requisite step to disburse the amount in favour of applicant-claimant as directed above and shall forward the compliance report to this Court.

4 With these observations, Civil Application stands disposed of.

(K.K. SONAWANE, J.)

Waishali
Sushil
Waghmare

Digitally signed
by Waishali
Sushil
Waghmare
Date: 2018.08.24
12:48:54 +0530