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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION No. 262 OF 2018**  
**IN**  
**FIRST APPEAL (ST.) No. 7480 OF 2017**

Banti Rajan Morakkil ... Applicant

Vs.

Brihan Mumbai Mahanagar Palika  
through BEST Undertaking ... Respondent

Ms. Varsha Chavan, Advocate for the applicant.

Mr. Madhukar Kalzunkar i/b. Navdeep Vora Associates, Advocate for the respondent.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **1<sup>st</sup> February, 2018.**

**P.C.:**

This Application is moved for withdrawal of the amount deposited by the appellant pursuant to the judgment and order dated 4<sup>th</sup> August, 2016 passed by the learned Member, Motor Accident Claims Tribunal, Mumbai in M.A.C.P. No. 1994 of 2012.

2. The learned counsel for the applicant submitted that the learned Judge of Motor Accident Claims Tribunal, Mumbai in this injury claim has granted compensation of Rs.5,98,000/- along with interest @9% p.a. The learned counsel submitted that the applicant has sustained fracture to his right leg femur, right leg tibia, fracture of end radius and ulna styloid of right hand and fracture to left mastoid

of brain. She submitted that the applicant needs money for his treatment. The accident has taken place on 20<sup>th</sup> August, 2012 and the applicant has spent lot of money for his treatment. Except NFL, the applicant did not receive any amount.

3. The learned counsel for the respondent has filed affidavit-in-reply. The learned counsel vehemently opposed this Application mainly on the ground that considering the evidence of driver of ST bus, who has stated that he has stopped the bus and the motorcyclist, i.e., applicant, straightway came driving negligently and dashed on the stationery bus and it was head-on collusion. He submitted that it is a case of 100% negligence on the party of the injured. He submitted that the BMC has good case on the point of negligence and quantum.

4. Perused the judgment of the Tribunal. It appears that the Tribunal has considered the record of the Criminal Court where the driver of S.T. Bus was prosecuted for accident. The fact of accident and collusion so also the injuries caused to the applicant are not disputed. In view of this, I allow the applicant to withdraw Rs.3 lakhs on an usual undertaking. The remaining amount is to be invested in

the Fixed Deposit in any nationalized bank.

5. Civil Application is also accordingly disposed of.

**(MRIDULA BHATKAR, J.)**