

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 63 OF 2018
IN
FIRST APPEAL (ST.) NO. 6176 OF 2017

Mohd. Zakir Mohd. Shabir Salmane ...Applicant

IN THE MATTER BETWEEN

Bajaj Allianz General Insurance Co.Ltd. ...Appellant

Versus

Mohd. Zakir Mohd. Shabir Salmane & Anr. ...Respondents

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Ms.Varsha Chavan for the Applicant.

Mr.Devendranath S. Joshi for the original Appellant in FA.

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CORAM: MRS.MRIDULA BHATKAR, J.
DATE : JANUARY 17, 2018

P.C.:

1. This Application is moved for withdrawal of an amount deposited by the original appellant pursuant to the judgment and award dated 27.04.2016 passed by the learned Member, Motor Accident Claims Tribunal, Mumbai in M.A.C.P. No. 3107 of 2008. The learned Member has granted compensation of Rs. 7,71,000/- along with interest @ 7.5% p.a.

2. The learned Counsel for the applicant/original claimant submits that it is an injury claim. The applicant has sustained severe injuries i.e. fracture neck of right femur, fracture of shaft of right femur and fracture of right tibia. He has taken treatment from the hospital and spent money on medical bills as well as there is loss of earning capacity. Till today, only NFL amount is received by the applicant.
3. The learned Counsel for the insurance company submits that the driver of the offending vehicle was not having a driving licence. Moreover, the applicant/original claimant has not proved the fact of permanent disability and loss of earning capacity.
4. Considering the judgment and award and the submissions, the applicant is allowed to withdraw 50% of the amount deposited by the appellant on an usual undertaking. The remaining amount is to be deposited in the fixed deposit in any nationalized bank.
5. Civil Application is allowed and is accordingly disposed of.

(MRIDULA BHATKAR, J.)