

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

939 CIVIL APPLICATION NO.4212 OF 2019
IN FA/1417/2017

SHANKAR BHAURAO PADOLE

VERSUS

RELIANCE GENERAL INSURANCE CO. LTD, THROUGH ITS
AUTHORIZED OFFICIAL, AURANGABAD AND ANOTHER

...

Advocate for Applicant : Shri Kadam Gajanan G.

Advocate for Respondent no.1 : Shri A. S. Usmanpurkar

CORAM: V.L. ACHLIYA, J.

DATE: 27.03.2019

PER COURT :

1] The applicant has moved this application for withdrawal of the amount deposited by the insurance company pursuant to the order passed by this Court.

2] Heard learned counsel for the applicant and the learned counsel representing the insurance company.

Perused the judgment and award passed by the Tribunal.

3] In brief, it is the contention of learned counsel for the appellant – insurance company that it has a good case to succeed in appeal. The compensation awarded is much on higher side and without any evidence being adduced as to the disability suffered by the applicant.

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It is further submitted that no evidence is adduced to prove the disability suffered by the applicant. So also no evidence was adduced as to the impairment.

4] Considering the submissions advanced in the light of overall facts of the case, the nature of evidence, the award passed and the challenges raised in the appeal, I am of the view that the applicant deserves to be permitted to withdraw the amount to the extent of 50% of the amount deposited. Accordingly, the following order is passed:-

O R D E R

A] Subject to outcome of the appeal, the applicant is permitted to withdraw the amount to the extent of 50% of the amount deposited by the insurance company subject to furnishing undertaking to the satisfaction of Registrar (Judicial) with a specific condition that in the event the award is set aside or modified, the applicant shall deposit the amount withdrawn within eight weeks from the date of the order.

B] After paying the amount to the extent of

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50% of the amount deposited, the balance amount be invested in a fixed deposit in any Nationalized bank initially for a period of 28 months with standing instructions to renew the same till the amount is directed to be withdrawn or to be paid.

C] The application is disposed of in above terms.

(V.L. ACHLIYA, J.)