

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

55. CIVIL APPLICATION NO. 5005 OF 2019
IN FA/506/2019

ABDULKHAN MAKBUL KHAN PATHAN
VERSUS
THE DIVISIONAL MANAGER, NATIONAL INSURANCE COMPANY LTD.,
AURANGABAD AND ORS

Mr. R.K. Ashtekar, Advocate for applicant
Mr. A.B. Kadethankar, Advocate for respondent No.1
Mr. R.D. Sanap, Advocate for respondents No.2 & 3

CORAM : V.L. ACHLIYA, J.

DATE : 15th April, 2019

PER COURT :

1. Applicant-claimant has moved this application for withdrawal of the amount deposited by the appellant-insurance company.
2. Heard learned Counsel for the applicant-claimant and learned Counsel appearing for the respondent/appellant-insurance company.
3. Learned Counsel for the appellant-insurance company

opposed the application with contention that the amount awarded is excessive. By referring overall facts of the case and evidence adduced, the learned Counsel submits that the evidence nowhere establishes the case of the applicant-claimant that he has suffered 100% permanent disability. The fact that the driving licence of the applicant was renewed itself sufficient to draw inference that no permanent disability has been caused to the applicant. In that view, the determination of compensation towards loss of income is unsustainable.

4. On the other hand, learned Counsel for the applicant-claimant submits that there is sufficient evidence to establish that the applicant has suffered permanent disability.

5. Considering the submissions advanced in the light of overall facts of the case and challenge raised in the appeal, I am of the view that the following order would meet the ends of justice.

O R D E R

I) Subject to outcome of appeal, applicant is permitted to withdraw amount to the extent of Rs. 3,50,000/- (Three lacs fifty thousand only), out of total amount of Rs. 9,33,436/- deposited by the appellant-insurance company, on furnishing written undertaking to the satisfaction of the Registrar (Judicial) that in case the award

is set aside or modified, the applicant shall redeposit the amount within eight weeks from the date of such order.

II) After making payment of Rs. 3,50,000/-, the balance amount together with interest accrued be invested in fixed deposit with Nationalized Bank, initially for a period of 28 months, with standing instructions to renew the same till further orders from this Court or disposal of appeal, as the case may be.

III) The application is disposed of in above terms.

(V.L. ACHLIYA)
JUDGE

Madkar