

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

916 CIVIL APPLICATION NO.9568 OF 2019
IN FIRST APPEAL STAMP NO.13319 OF 2019

MAHADA @ MADHAV BALIRAM TEKALE
VERSUS
THE ORIENTAL INSURANCE CO. LTD.
THR ITS BR.MANAGER & ANOTHER

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Advocate for applicant: Mr.S.V.Suryawanshi
Advocate for Respondent no.1:Mr.Dhananjay P.
Deshpande
Advocate for respondent no.2:Mr.Pavankumar S.
Agrawal

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CORAM : V.L.ACHLIYA,J.
DATE : 10.12.2019

PER COURT:

1] Leave granted to amend and correct the cause title of the application.

2] The applicant-respondent no.1 [original claimant] has moved this Application, seeking withdrawal of the amount deposited by the Insurance Company.

3] Heard learned counsel for the applicant and respondents. The Claim Petition was filed seeking compensation on account of the injury sustained by the applicant in the

accident. The Tribunal has awarded the compensation of Rs.8,04,100/- with interest at the rate of 9% per annum from the date of filing of Petition till its realization. In terms of the conditional order to stay the execution proceedings, the respondent no.1—Insurance Company has deposited Rs.11,47,456/-.

4] Learned counsel for the appellant i.e. respondent no.1—insurance company submits that the challenge raised in the appeal confines to the quantum of compensation. It is submitted that there is no challenge as to liability of the insurance company to pay claim. It is submitted that the claim awarded by the Tribunal is excessive and unsustainable in law.

5] On due consideration of the submissions advanced, I am of the view that the amount to the extent of 50% of the amount deposited be allowed to be withdrawn on furnishing usual undertaking. Accordingly, the following order is passed :

ORDER

I] Application is partly allowed.

- II] The applicant is permitted to withdraw sum of Rs.5,50,000/- out of the amount deposited by the Insurance Company on furnishing undertaking to the satisfaction of the Registrar [Judicial] to the effect that in case the award is modified and in terms of the modified award, if the applicant is required to deposit any amount, the applicant shall deposit the same within four weeks.
- III] The amount allowed to be withdrawn be credited in the saving bank account of the applicant on furnishing particulars of Bank account.
- IV] After paying the amount of Rs.5,50,000/- to applicant, the balance amount be invested in Fixed Deposit with Nationalized Bank initially for two years subject to automatic renewal till further orders from this Court.

V] Civil Application is disposed of in
above terms.

[V.L.ACHLIYA]
JUDGE

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