

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

**40 CIVIL APPLICATION NO.13712 OF 2019
IN FAST/27596/2019 WITH CA/11083/2019 IN FAST/27596/2019 WITH
CA/11084/2019 IN FAST/27596/2019**

**SHRIKANT CHANDRAKANT GAWALI
VERSUS
THE DIVISIONAL MANAGER, NEW INDIA INSURANCE CO.
LTD., AHMEDNAGAR AND ORS**

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**Advocate for Applicants : D. R. Markad B M Walke
Adv.S. G. Chapalgaonkar For R/1**

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**CORAM : MANGESH S. PATIL, J.
DATE : 28.11.2019**

PC. :-

Heard both the sides.

2] In the injury claim lodged through father the applicant is now seeking to withdraw the amount deposited by the insurance company in this Court pursuant to the impugned award.

3] The learned advocate for the applicant claimant submits that he was a pedestrian knocked down by the car. He was running a grocery shop with his father. There was evidence about income tax returns filed by him for atleast 3 years. Though the percentage of the disability has been stated to be 75%, in fact the Doctor has also testified that the applicant is not in a position to understand anything, meaning thereby that there is a complete loss of income

owing to the disability suffered in the accident. In fact the medical expenses itself are to the tune of Rs.26 lakhs and above and even now the treatment is going on.

4] The learned advocate for the insurance company opposes the application. He submits that though the applicant was a pedestrian he had abruptly come on the road and has contributed in commission of the accident. He would then submit that there is evidence to show that the grocery shop has been closed. The bills regarding medical expenses were also not duly proved and there is serious dispute about the quantum of the compensation as well.

5] Considering the aforementioned submissions coupled with the observations and the conclusions drawn in the impugned judgment and award the applicant deserves to be paid atleast 50% of the amount when he is still under medical treatment, even after lapse of 3 years of the accident and particularly when the Doctor has specifically justified that he is unable to even understand anything.

6] The Application is allowed. The applicant is allowed to withdraw 50% of the amount deposited in this Court by furnishing usual undertaking.

[MANGESH S. PATIL, J.]