

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

**902 CIVIL APPLICATION NO.148 OF 2019
IN FA/108/2019**

**BALAJI VISHWAMBHAR BIRADAR
VERSUS
IFFCO TOKYO GENERAL INSURANCE CO. LTD., THR. THE BRANCH
MANAGER, AND ORS**

...
Advocate for Applicant : Shri Ram S. Shinde
Advocate for Respondent No.1 : Shri S.S.Dargad h/f.
Shri S.G Chapalgaonkar
Advocate for Respondent No.3 : Shri M.P.Kale h/f. Shri G.V.Sukale

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CORAM : P.R.BORA, J.
DATE: 6th March, 2019

PER COURT:-

1 Heard Shri Ram S.Shinde, learned Counsel appearing for the applicant and Shri S.S.Dargad h/f. Shri S.G.Chapalgaonkar, learned Counsel appearing for the respondent Insurance Company.

2 The applicant has sought withdrawal of the entire amount of compensation as has been deposited by the appellant Insurance Company.

3 The appellant Insurance Company has opposed for permitting any withdrawal. It is the contention of the appellant that there was no functional disability and as such applicant did not suffer any loss in his income. It is the further contention of the appellant Insurance Company that though disability was certified to the extent of only 12%, the Tribunal has held it to the extent of 20% and accordingly assessed the amount of

compensation. The learned Counsel submitted that the entire award appears to have been arbitrarily passed. He has therefore prayed for rejecting the application.

4 I have perused the impugned Judgment and the grounds of objection raised in exception to the said Judgment. The copies of the evidence are made available by the learned Counsel for the appellant Insurance Company. I have gone through the said evidence also. After having considered the aforesaid material, I deem it appropriate to pass the following order:-

ORDER

- I) The application is partly allowed.
- II) The applicant is permitted to withdraw 50% of the deposited amount on submitting an undertaking to the satisfaction of the Registrar (Judicial) of this Court.
- III) Balance 50% amount be invested in the Fixed Deposit Receipt in any Nationalized Bank for the period till disposal of the appeal.
- IV) Application for withdrawal of the amount stands disposed of.
- V) List the appeal for further consideration on 03.04.2019.
- VI) Call Record and Proceeding.

(P.R.BORA)
JUDGE