

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.2595/2019
in
First Appeal (ST) No. 19110/2013

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
	Ms. Ruchita Dave I/b. S. S. Vidhyarthi for the Appellant Mr. Jayant J. Bardeskar for the Applicant

CORAM: K.K.TATED, J.
DATED : AUGUST 28, 2019

P.C.

1 Heard. By this Civil Application, the Applicant is seeking permission to withdraw the amount deposited by the Insurance Co. to satisfy the impugned judgment and award dated 30.11.2012 passed by the MACT, Kolhapur in MACP No.695/2009.

2 The learned counsel for the Applicant submits that in an accident which occurred on 20.10.2009, the Applicant lost his legs. He submits that because of accident he was hospitalized from 20.10.2009 to 01.01.2010. Moreover, he was on leave for more than 150 days. The Doctor has certified him

to be 100% disable. He submits that considering these facts, this Hon'ble Court be pleased to allow the Applicant to withdraw the amount deposited by the Appellant Insurance Co.

3 On the other hand, the learned counsel for the Insurance Co. has vehemently opposed the Civil Application. She submits that they are challenging the impugned judgment and award only to the extent of quantum. She submits that the Tribunal has awarded the compensation on higher side. She submits that if entire amount is withdrawn by the claimant, it will be very difficult for the Appellant to recover the same. Therefore, there is no question of allowing the Civil Application. She submits that if this court comes to the conclusion that the Applicant - claimant is entitled to withdraw the amount, in that case, the Applicant may be directed to furnish the solvent security to the satisfaction of the Trial Court.

4 It is to be noted that in the present proceedings in an accident which occurred on 20.10.2009, the Applicant lost his legs. Because of accident he was

hospitalized from 20.10.2009 to 01.01.2010. Moreover, he was on leave for more than 150 days. The Doctor has certified him to be 100% disable. Hence, the claimant can be permitted to withdraw 50% of the awarded amount.

5 Hence, following order is passed:

a. The Applicant – claimant Rajaram Sadashiv Sutar is entitled to withdraw 50% of the amount deposited by the Insurance Co. with accrued interest without furnishing any security but subject to outcome of the First Appeal.

b. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.

c. The Civil Application stands disposed of accordingly.

d. No order as to costs.

(K.K.TATED, J.)