

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 79 OF 2019
IN
FIRST APPEAL NO. 259 OF 2019

Fazalu Mahibub Bagwan & Anr.Applicants.

Vs.

Bajaj Allianz General Insurance Co.Ltd. Respondent

Mr. A.B. Tajane for the Applicant.
Mr. S.S. Diwan for the Respondent.

CORAM : K.K.TATED, J.
DATED : JUNE 20, 2019

P.C.

- 1 Heard learned counsel for the parties.
2. By this Civil Application, the Applicants/Claimants is seeking permission to withdraw the amount deposited by the insurance company to satisfy the judgment and award dated 12th May, 2017 passed by the Motor Accident Claims Tribunal, Pandharpur in Motor Accident Claim Petition No. 59 of 2013.
3. The learned counsel for the Applicant submits that in the present proceeding in accident which occurred on 14th March 2013, the Applicant sustained grievous injury. He suffered 40% disability by shortening of his right leg by 2 cm. He submits that because of this

accident, Applicant filed application under Section 166 of the Motor Vehicle Act for compensation of Rs. 5,00,000/- with 18% interest. He submits that after considering the evidence on record, the Trial Court held that Claimants are entitled to sum of Rs. 4,18,576/- by way of compensation with 7% interest. The learned counsel for the Applicant submits that the Applicant be permitted to withdraw the amount deposited by the insurance company.

4. During the argument. the learned counsel for the Applicant submits that, the Applicant be permitted to withdraw 50% amount and liberty be granted to file fresh Application in future, in case further amount is required by the Claimants.

5. On the other hand, the learned counsel for the insurance company vehemently opposed the present Civil Application. He submits that if the amount is withdrawn by the Claimants without furnishing any security then it will be very difficult for them to recover the amount in case they succeed in the present First Appeal.

6. It is to be noted that in the present proceeding the Applicant sustained injury. He was declared 40% permanent disabled.

7. Considering these facts, I am of the opinion that the Applicant has made out the case for allowing to withdraw some amount without furnishing any security but subject to outcome of the First Appeal.

8. Hence, the following order:
 - a. The Applicant is permitted to withdraw 50% amount with interest without furnishing any security but subject to outcome of the First Appeal.
 - b. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits.
 - c. The Civil Application stands disposed accordingly.

(K.K.TATED, J.)