

ISM

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 1004 OF 2019
IN
FIRST APPEAL (ST) NO. 10321 OF 2016**

Mr. Sagar Baban NikamApplicant

V/s.

Divisional Manager, the New India
Assurance Co. Ltd. and anotherRespondents

Mr. Sandeep Jinsiwale for the applicant
Mr. Pritesh Bohade for the respondents

CORAM : K. K. TATED, J.

DATE : MARCH 15, 2019.

P.C.

Heard learned counsel for the parties.

2 By this Civil Application, the applicant is seeking permission to withdraw the amount deposited by the appellant Insurance Company before the Tribunal.

3 The learned counsel for the applicant submits that because of

accident, it is very difficult for the applicant to earn for satisfying his day to day needs. Hence, he requires some amount.

4 On the other hand, the learned counsel for the respondent Insurance Company vehemently opposed the Civil Application. He submits that if the amount is withdrawn by the applicant, without furnishing any security, then it will be very difficult for them to recovery the same, in case they succeed in the present appeal. He further submits that Insurance Company specifically raised one of the ground in the appeal memo that the driver of the offending vehicle was not holding a valid licence on the date of incident. Hence, there is no question of permitting the applicant to withdraw the amount.

5 I have heard both sides. It is to be noted that in the present proceedings, in an accident which occurred on 01/03/2009, applicant sustained injuries and because of that, it has become difficult for him to ear for his day to day needs. Considering these facts and the reasons mentioned by the applicant in the Civil

Application, I am satisfied that applicant has made out case for withdrawal of certain amount during pendency of the First Appeal on personal ground, subject to outcome of the First Appeal. Hence, following order:

(I) Applicant is permitted to withdraw 50% of the amount deposited by the Insurance Company by furnishing personal bond with an undertaking that he will refund entire amount in case, Insurance Company succeeds in the present proceedings with interest as per directions of the Court.

(II) Civil Application stands disposed of.

[K.K. TATE, J.]