

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 618 OF 2019
IN
FIRST APPEAL NO. 1197 OF 2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. Tushar Sonawane for Applicant.
Ms. Nisha Gandhi I/b Res Juris for the Appellant.

CORAM: K.K.TATED, J.
DATED : 03/09/2019

P.C.

- 1 Heard learned Counsel for the parties.
- 2 By this Civil Application, the Applicant original Claimant is seeking permission to withdraw the amount deposited by the Appellant Insurance Company as per the Judgment and Award dated 26.06.2018 passed by MACT, Niphad in MACP No. 13 of 2016.
- 3 The learned Counsel for the Applicant submits that in accident which occurred on 21.05.2014 the Applicant suffered several injuries. He submits that because of these injuries, Doctor certified 100% disability. He submits that because of said accident, it is impossible for the Applicant to do any work.

Therefore, this Hon'ble Court be pleased to allow the Applicant to withdraw the amount deposited by the Insurance Company during the pendency of the First Appeal.

4 On the other hand, the learned Counsel for the Appellant Insurance Company vehemently opposed the present Civil Application. She submits that in the present proceeding, they specifically raised the objection about holding valid licence by the driver of the offending vehicle. She submits that these facts are considered by the Tribunal in paragraph 13 of the impugned judgment. She submits that in view of breach of terms and conditions of the policy, the Insurance Company is not liable to pay any compensation. She submits that there is no substance in the present application and same is required to be dismissed with costs.

5 I heard both the sides at length. There is no dispute that the Applicant sustained 100% disability by the accident occurred on 21.05.2014. The issue involved in the present appeal is “whether driver of the offending vehicle was holding valid licence or not”. In paragraph 13 of the impugned order, the Tribunal has considered this issue.

6 Considering this fact, there is no

question of withdrawing of amount by the Applicant without furnishing any security.

7 Hence, following order is passed:

a) Applicant is permitted to withdraw 25% of amount by furnishing solvent security to the satisfaction of the Tribunal within three months from today.

b) The Tribunal is directed to invest remaining amount in fixed deposit of any nationalised bank, initially for a period of one year and same to be continued till further order.

c) Civil Application stands disposed of accordingly.

d) No order as to costs.

(K.K.TATED, J.)