

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 3281 OF 2015
IN
FIRST APPEAL NO. 616 OF 2015

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
---	----------------------------

Mr.T.J. Mendon for the Applicant.
Mr. H.B. Takke I/b Milind More for the Respondent.

CORAM: K.K.TATED, J.
DATED : 27/09/2019

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 to satisfy the Judgment and Award dated 03.12.2012 passed by MACT, Mumbai in Petition No. 1938 of 2008.
- 3 The learned Counsel for the Applicant submits that the Tribunal passed Judgment and Award and awarded sum of Rs. 1,17,000/- by way of compensation inclusive of No Fault Liability along with interest @ 7.5% p.a.

4 Being aggrieved by the said award, the Appellant preferred the present First Appeal No. 616 of 2015. Pursuant to the order passed by this Court, the Appellant deposited the awarded amount in the Registry of this Court. He submits that First Appeal stands dismissed as per noting of the Registry on 12.07.2016. He submits that in view of dismissal of First Appeal itself, the Applicant original Claimant is entitled to withdraw the amount deposited by the Appellant. Hence, the Applicant preferred the present Civil Application.

5 The learned Counsel for the Applicant submits that in the interest of justice, this Hon'ble Court be pleased to permit the Applicant to withdraw the entire amount with accrued interest without furnishing any security.

6 On the other hand, the learned Counsel for the Appellant Insurance Company submits that he received instructions from his client to prefer appropriate application for restoration of First Appeal. On the basis of these submissions, the learned Counsel for the Appellant submits that if the present Civil Application is allowed, nothing survives in the present proceeding.

7 It is to be noted that the present Civil

Application was duly served on Advocate for the Appellant on 09.04.2015 as per the statement made by the learned Counsel for the Applicant. Even there is no reply on the part of the Appellant.

8 Considering the subsequent development that the First Appeal itself stands dismissed, I am of the opinion that Applicant original Claimant is entitled to withdraw the entire amount with accrued interest without furnishing any security.

9 Hence, following order is passed:

a) Applicant Mrs. Priti Pramod Nayak, is permitted to withdraw the entire amount along with accrued interest deposited by the Appellant in the Registry of this court without furnishing any security.

b) Civil Application stands disposed of accordingly.

c) No order as to costs.

(K.K.TATED, J.)