

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

**CIVIL APPLICATION NO.2276 OF 2018
IN
FIRST APPEAL NO.1626 OF 2016
WITH
FIRST APPEAL NO.1626 OF 2016**

Amol Uttam Gaikwad ...Applicant

In the matter between

Ajit M. Singh ...Appellant

Versus

Amol Uttam Gaikwad ...Respondent

...

Mr. K.H. Giri for the Appellant in FA/1626/2016 and for the Respondent in CAF/2276/2018.

Mr. Devendranath S. Joshi for the Respondent No.2.

Ms Aditi Naikare I/b. Mr. Pradeep J. Thorat for the Respondent No.1 and for the Applicant in CAF/2276/2018.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 17th SEPTEMBER, 2019.

P.C.:-

The Applicant herein has sought withdrawal of compensation deposited by the Appellant-Insurance Company as per the judgment dated 7th July, 2016 passed by the learned Member, M.A.C.T., Mumbai in Application No.518 of 2010.

2. By the impugned judgment and award the Claims Tribunal

has awarded compensation of Rs.4,20,400/- with interest @ 9% per annum from the date of filing of the application till realisation of the amount in full. The Applicant had initially claimed that he is unable to work due to the injuries sustained in the accident. He had stated that he is rendered unemployed and has no source of income. However, in the additional affidavit filed on 28th June, 2019, the Applicant has stated that after the accident, the Applicant was removed from the service and is working in City Civil Court on contract basis. He has stated that his statement that he is unemployed was made due to inadvertence and that he had no intention of suppressing the facts from the Court. He has tendered unconditional apology for making a wrong statement. Apology is accepted.

3. Considering the fact that the Applicant had sustained injuries in the accident, which have resulted in permanent disability and also considering the reasons stated in paragraph 3 of the affidavit dated 28th June, 2019, the Applicant is allowed to withdraw 25 % of the compensation deposited by the Appellant-Insurance Company alongwith the proportionate interest accrued thereon subject to filing an undertaking before the M.A.C.T., Mumbai that he shall refund the said amount in the event the Appellant succeeds in the appeal. The

Tribunal shall invest the rest of the amount in any Nationalised Bank until further orders.

4. The application stands disposed of.

ORDER IN FIRST APPEAL NO.1626 OF 2016:-

5. Heard. Arguable points are raised. Hence, admit.

6. Paper book to be filed within a period of one year. Printing is dispensed with. Mr. Devendranath S. Joshi, the learned counsel waives service on behalf of the Respondent No.2 and Ms Aditi Naikare, the learned counsel waives service on behalf of the Respondent No.1. Call for the Record and proceedings.

(SMT. ANUJA PRABHUDESSAI, J.)