

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

**CIVIL APPLICATION NO. 2467 OF 2019
IN
FIRST APPEAL NO. 815 OF 2017**

Kishor Machhindra Deshmukh and Anr. ... Applicant
V/s.
Iffco Tokio General Insurance Co. Ltd. ... Respondents

Ms. Harshada Rane i/b. Sangeeta Salvi, Advocate for Applicant/
Claimant.
Ms. Varsha Chavan, Advocate for the Appellant/Respondent No.1.

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**CORAM : K. K. TATED, J.
DATED : 11th OCTOBER, 2019**

P.C.:

1. Heard learned counsel for the parties.
2. By this Civil Application, applicant/original claimant is seeking permission to withdraw the amount deposited by the insurance company.
3. The learned counsel Ms. Harshada Rane for the applicant submits that, an accident which occurred on 2nd January, 2014, applicant sustained several injuries. She submits that, on the date of accident applicant was 25 years old and he was doing service as a trainee

operator with TeamLease Services Pvt. Ltd., Bangalore and was earning 8,000/- per month. She submits that, because of accident the applicant sustained 37% disability. She submits that, to that effect the applicant placed on record the certificate at exhibit 26. She further submits that, because of accident the applicant was required to take bed rest for 12 months. She submits that, in view of this fact applicant may be permitted to withdraw the amount deposited by the appellant/insurance company.

4. On the other hand, the learned counsel Ms. Varsha Chavan appearing on behalf of the Appellant/Insurance Company submits that, if entire amount is withdrawn by the applicant, then nothing will survive in the present proceeding. She further submits that, if this court come to the conclusion that, the applicant is entitled to withdraw the entire amount, then applicant may be directed to provide security for that purpose.

5. It is to be noted that, in the present proceeding an accident which occurred on 2nd January 2014 applicant sustained 37% disability. Not only that he was bed ridden for more than 12 months.

6. Considering all these facts and the findings given by the Tribunal in para 24 of the impugned Judgment, I satisfy that, applicant can be

permitted to withdraw the 50% amount without furnishing any security but subject to outcome of the first appeal. Hence, following order.

ORDER

- a) Applicant Mr. Kishor Machhindra Deshmukh is permitted to withdraw 50% amount with accrued interest without furnishing any security but subject to outcome of the First Appeal.
- b) Civil Application stands disposed of accordingly.
- c) No order as to costs.

(K.K.TATED, J.)