

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3662/2018
IN
FIRST APPEAL NO.680/2017

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
	Mr. Mitesh Dave I/b. A. M. Gokhale for the applicant Mr. Sanjay Krishnan I/b. Harshada Rane for the respondent

CORAM : K.K.TATED, J.
DATED : JUNE 3, 2019

P.C.

1 Heard. By this civil application the applicant is seeking withdrawal of the amount deposited by the insurance company.

2 The learned counsel applicant submits that in the present proceedings, in an accident which occurred on 06.01.2018 the applicant sustained injury. He submits that the applicant was hospitalized from 05.01.2009 to 15.01.2009 and had undergone surgical operation for right tibia fibula. He submits that because of

the said accident, the applicant lost his service and as on today he is unemployed. Therefore, he needs the amount deposited by the insurance company in the Tribunal. The learned counsel for the applicant submits that in the interest of justice, this Hon'ble Court be pleased to allow the civil application and permit the applicant to withdraw the amount deposited by the insurance company. He submits that if the civil application is not allowed irreparable loss will be caused to them.

3 On the other hand, the learned counsel for the insurance company has vehemently opposed the civil application. He submits that the applicant has not placed on record any documentary evidence to show that because of accident, he has to lose his service. He submits that the applicant has not brought any documentary evidence to prove that he is unable to do any work. Therefore, there is no question of allowing the civil application. He submits if entire amount is withdrawn nothing will survive in the first appeal. He submits that if this court comes to the conclusion that, the

applicant is entitled to withdraw some amount, in that case the applicant may be directed to provide solvent security.

4 Heard both sides at length. Admittedly, the applicant has suffered multiple injuries and because of that it is difficult for him to continue in service.

5 Considering the submissions made by the learned counsel for the applicant and the averments made in the civil application, I am satisfied that the applicant has made out a case for allowing the civil application.

6 Hence, the following order is passed:

a. The applicant is permitted to withdraw 25% of the amount deposited by the insurance company in the tribunal, without furnishing any security.

b. The applicant is permitted to withdraw further 25% of the amount deposited by the insurance company in the tribunal, by furnishing solvent security to the satisfaction of the tribunal.

c. The Tribunal is directed to invest the remaining amount in a Fixed Deposit account of any Nationalized Bank initially for a period of one year and same shall be renewed from time to time till further orders.

d. Civil Application stands disposed of accordingly.

e. No order as to costs.

(K.K.TATED, J.)