

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

FIRST APPEAL NO.974 OF 2018

The New India Assurance Co. Ltd.	Appellant
V/s.	
Mr. Indalkumar Ramraj Gautam & Anr.	Respondents

**WITH
CIVIL APPLICATION NO.3635 OF 2017
IN
FIRST APPEAL NO.974 OF 2018**

Mr. Indalkumar Ramraj Gautam	...Applicant
<u>In the matter of</u>	
The New India Assurance Co. Ltd.	Appellant
V/s.	
Mr. Indalkumar Ramraj Gautam & Anr.	Respondents

Mr. Sudhakar Pandaram i/b Mr. Milind V. More, advocate for the appellant in FA No.974 of 2018 and for respondent in CAF No.3635 of 2017.

Mr. Kruttika Pokale i/b Mr. Avinash M. Gokhale, advocate for the respondent in FA No.974 of 2018 and for applicant in CAF No.3635 of 2017.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED : 20th AUGUST, 2019.**

P.C.:-

ORDER IN CIVIL APPLICATION NO.3635 OF 2017:-

The applicant herein has sought withdrawal of the compensation awarded by the Learned Commissioner for Employees' Compensation & Judge, Sixth Labour Court, Mumbai, vide judgment dtd.30/06/2016 in Application (WCA) No.571/C-136/2013.

2. By the impugned judgment and award, the Learned

Commissioner has awarded compensation of Rs.10,62,576/- with interest @ 12% per annum from the date of the application till final realization of the amount. In addition, the respondent No. 2 is also directed to pay an amount of Rs.2,65,644/-, i.e., 25% of amount of compensation towards the penalty and Rs.5,000/- towards medical expenses to the applicant.

3. The applicant has stated that he was 22 years of age as on the date of the accident. He has stated that his toes had to be amputated and that his right hand is not functioning, resulting in 100% loss of earning capacity. It is stated that the applicant has not been able to earn his livelihood on the account of said injuries.

4. Considering the reasons stated in the application, so also the grounds raised in the appeal memo, the applicant is permitted to withdraw 50% of the compensation deposited by the respondent / insurance company. Suffice it to say that withdrawal of the compensation is subject to the final outcome of the appeal. The applicant shall furnish an undertaking before the Commissioner that he will abide by the final orders that may be passed in this appeal.

5. The balance amount be reinvested in any nationalized bank after making the payment as stated above.

6. The Civil Application stands disposed of.

ORDER IN THE FIRST APPEAL NO.974 OF 2018

8. Heard.
9. Admit.
10. The learned Counsel for the respondent No. 1 waives service.
11. Issue notice to the respondent No. 2.
12. The appellant to file private paper book within one year from today with copy to the other side.
13. Printing dispensed with.
14. Registry to call for the record and proceedings.

(SMT. ANUJA PRABHUDESSAI, J.)