

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

**CIVIL APPLICATION NO.3432 OF 2018
IN
FIRST APPEAL NO.389 OF 2017**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Rajesh S. Patil for the applicant

Ms.Varsha Chavan for the respondent

**CORAM : K. K. TATED, J
DATE : MARCH 22, 2019**

P.C.:

. Heard.

2. By this Civil Application, applicant is seeking permission to withdraw further amount of Rs.4,00,000/- deposited by the Insurance Company in the present proceeding.

3. The learned counsel for the applicant submits that in the present proceeding MACT, Kalyan in MACP No.45 of 2008 directed Insurance Company to pay sum of

Rs.8,60,000/- with 9% p.a. by way of compensation. He submits that the Trial Court in para 13 of the impugned order specifically recorded that because of accident, applicant suffered permanent partial disability to the extent of 30% of right lower limb. He submits that as on today applicant has to repay sum of Rs.4,64,532/- towards loan amount. Hence, he has filed the present Civil Application for permitting him to withdraw the amount. In support of this contention, the learned counsel for the applicant has placed on record statement of HDFC to show the outstanding amount towards loan account.

3 The learned counsel for the applicant submits that he received instruction from his client that applicant is ready and willing to provide security for sum of Rs.4,50,000/- to the satisfaction of the Trial Court. He submits that in view of these facts, Respondent may be permitted to withdraw sum of Rs.4,50,000/- in addition to the amount already withdrawn by him by order dated 12.06.2017.

4 On the other hand, the learned counsel for the applicant Insurance Company submits that if applicant is giving security in the Trial Court that be solvent security to the satisfaction of the Trial Court.

5 Considering the submissions made by the learned counsel for the Applicant, averments made in Civil Application particularly in paragraph Nos.8 and 9, considering the statement of HDFC, I am satisfied that the Applicant has made out a case for allowing him to withdraw some amount for repayment of loan. Not only that, the applicant is ready and willing to provide solvent security to the satisfaction of the trial court. In view of these facts, I am satisfied that applicant has made out a case for following order :

- a. Applicant is permitted to withdraw sum of Rs.4,50,000/- by providing solvent security to the satisfaction of the trial court on or before 31.05.2019.
- b. Trial Court is directed to invest remaining amount in fixed deposit of any nationalized bank initially for a period of one year and same be continued till the hearing and final disposal of First Appeal.
- c. Civil Application stands disposed of accordingly.
- d. No order as to costs.

(K.K. TATED, J.)