

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

**CIVIL APPLICATION NO. 817 OF 2019
IN
FIRST APPEAL NO. 1043 OF 2015**

Shri Sagar Haribhau Dumbre . **..Applicants**

v/s.

**Bajaj Allianz General Insurance Co. Ltd.
And Anr.** **..Respondents**

**Mr. C.M.Lokesh I/b. G.K.S. Hegde for the Applicant.
Ms. Yogita Deshmukh-Chitnis for the Respondent No.1.**

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 25th FEBRUARY, 2019.**

P.C.

1. The applicant herein, who is the original claimant has sought withdrawal of the compensation deposited by the respondent Insurance Company, as per the judgment and Award dated 17th April, 2015, passed by the MACT Pune, in MACP No. 1077 of 2010.
2. By the impugned judgment and award, the respondent Insurance Company has been directed to pay compensation with interest at the rate of 9% per anum on the amount of Rs.15,79,005/-

from the date of the application till realization of the award. In compliance of the said Order, the respondent Insurance Company has deposited compensation of Rs.16,04,005/- along with interest. The applicant herein is the injured. The records indicate that his leg has been amputated in view of the injury sustained in the accident. It is stated that he is unable to work and earn his livelihood. The learned Counsel for the applicant, therefore, prays that the entire amount be paid to the applicant. The learned Counsel for the respondent however submits that she has challenged the award on the ground that the vehicle was used for commercial purpose in breach of the terms and condition of the policy.

3. Considering the grounds raised in the present application as well as the grounds raised in the appeal memo, in my considered view, it would be just and proper to pay to the applicant amount of 50% of the total compensation deposited by the respondent Insurance Company. Hence, the Order.

i) The MACT, Pune is directed to pay to the applicant 50% of the total compensation deposited by the respondent-Insurance Company, on the applicant furnishing an undertaking before the Tribunal that

he will abide by the final order that may be passed in the appeal.

(ii) The balance amount be re-invested in the name of the applicant in any Nationalized Bank till further orders

(iii) It is made clear that the payment of the amount is subject to the final outcome of the appeal.

4. Civil application stands disposed of.

(ANUJA PRABHUDESSAI, J.)