

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1324/2019
in
First Appeal No.1232/2017

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. Bharat Gadhavi for the Applicant
Mr. S. M. Dange for the Respondent

CORAM: K.K.TATED, J.
DATED : AUGUST 13, 2019

P.C.

1 Heard. By this Civil Application, the claimant is seeking permission to withdraw the amount deposited by the Appellant Insurance Co. to satisfy the impugned judgment and award 07.04.2017 passed by the MACT, Mumbai in claim application No.463/2011.

2 The learned counsel for the Applicant submits that in an accident which occurred on 06.01.2011 the Applicant sustained serious injuries i.e. fracture of left leg, severe crush injury, left ankle joint compound fracture, compound fracture of tibia fibula, multiple fractures left foot, tibia ankle joint got exposed and finally leading to amputation of left leg.

3 The learned counsel for the Applicant submits that the left leg below knee was amputated. He submits that even the JJ Hospital, Mumbai has issued disability certificate at Exhibit-20 showing that the Applicant suffered 70% disability. He submits that because of accident the Applicant - claimant was in hospital from 06.01.2011 to 19.02.2011 i.e. for the period of 43 days. He submits that the Applicant spent more than Rs.12 lacs on medical bills itself. He submits that on the date of accident, the Applicant was 30 years old. He was working as a Filed Officer and earning Rs.31,500/- pm. He submits that the First Appeal will take its own time for hearing on merits. He submits that in the meantime, the Applicant may be permitted to withdraw the amount deposited by the Appellant Insurance Co.

4 On the other hand the learned counsel for the Appellant Insurance Co. vehemently opposed the Civil Application. He submits that if entire amount is withdrawn by the Applicant nothing will survive in the present proceedings. He submits that the Tribunal has awarded compensation on

higher side. He submits that as per their information, till today the Applicant is in service and he is getting full salary. Therefore, there is no question of permitting the Applicant to withdraw the amount deposited by them during pendency of the First Appeal. He submits that if entire amount is withdrawn by the claimant then it will be very difficult to recover the same in case they succeed in the present First Appeal.

5 Heard both sides at length. It is to be noted that in the accident which occurred on 06.01.2011 the Applicant suffered sever injuries including amputation of his left leg below knee. At that time he was 30 years old. Apart from that the Applicant has made a statement on solemn affirmation that he has spent Rs.12 lacs for medical bills alone.

6 Considering all these facts and the reasons disclosed by the Applicant in paragraph 2 to 4 of the Civil Application, I am satisfied that the Applicant has made out a case for permission to withdraw some amount during pendency of the First Appeal.

7 Hence, following order is passed:

- a. The claimant Aniket Ravindra Sakpal is permitted to withdraw 50% of the awarded amount with accrued interest without furnishing any security but subject to outcome of the First Appeal.
- b. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of further amount, if he so desire, which will be decided on its own merits
- c. The Civil Application stands disposed of accordingly.
- d. No order as to costs.

(K.K.TATED, J.)