

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**950 CIVIL APPLICATION NO.265 OF 2019
IN FA/3750/2018**

SHAIKH ABDUL AZIM SHAIKH SATTAR
VERSUS
THE RELIANCE GENERAL INSURANCE CO. LTD., THR. ITS
DIV.MANAGER, AND ANR

...
Advocate for Applicant : Mr.Quadri Taher Ali
Advocate for Respondent No.1 : Mr.S.G.Chapalgaonkar

...
CORAM : K.K.SONAWANE, J.

DATE: 17th January, 2020

PER COURT:-

1. Heard learned counsel for the applicant and learned counsel appearing for respondent No.1-Insurance Company. When the matter is called out, no one else appeared for respondent No.2-owner of the vehicle.

2. The present application is filed seeking permission to withdraw compensation amount deposited in this case on behalf of respondent No.1-appellant Insurance Company.

3. Mr.S.G.Chapalgaonkar, learned counsel for the appellant Insurance Company raised objections and submits that the learned Commissioner for Employees' Compensation and Judge, Labour Court, Nanded, did not appreciate factual aspects of the matter in proper manner and awarded excessive compensation. The alleged mishap could not come within the ambit of Employees' Compensation Act. He explained circumstances and submits that it cannot be said that the applicant sustained injury during the course of employment.

4. Having given anxious consideration to the arguments advanced on behalf of respondent No.1-appellant Insurance Company and on perusal of the order passed by the learned Commissioner, I find that the applicant herein received 55% permanent disability. It would create hurdles for earning capacity of the applicant. Learned counsel draw attention of this Court towards circumstance that the applicant renewed his licence after occurrence of the alleged accident. Be that as it may, the applicant-claimant received physical injury in the mishap. The injury received by the applicant-claimant was during the course of his employment or not, is the issue that will be decided on anvil of merits. However, at this juncture, it would be justifiable to allow the applicant to withdraw 50% of amount deposited before the learned Commissioner on behalf of the respondent No.1-appellant Insurance Company. Definitely it would sub-serve the purpose of providing some solace to the applicant-claimant. Moreover, it would not cause any injustice or prejudice to the respondent No.1-appellant-Insurance Company. Hence, the application deserves to be allowed.

5. Accordingly, the application stands allowed and disposed of. The applicant-original claimant is hereby permitted to withdraw 50% of the compensation amount deposited before the learned Commissioner on behalf of the appellant Insurance Company, subject to furnishing undertaking that in case any adverse situation arises in appeal after success of the Insurance Company, the applicant shall refund the entire amount forthwith as per directions of this Court. The learned Commissioner for Employees' Compensation and Judge, Labour Court, Nanded, is directed to deposit balance 50% amount in Fixed Deposit Receipt in any Nationalized or Scheduled Bank for a period of two years or till decision of the appeal on merit, whichever is earlier.

6. Appropriate Authority in the Office of the learned Commissioner for Employees' Compensation and Judge, Labour Court, Nanded, to do the needful for disbursement of the amount to the applicant-claimant as indicated above.

(K.K.SONAWANE)
JUDGE

SPT