

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

**9 CIVIL APPLICATION NO.1536 OF 2020
IN
FA/4107/2017**

**DAYANAND MAROTI RAUT
VERSUS
M.S.R.T.C. THR ITS DIVISIONAL
CONTROLLER, DIVISION OFFICE, YEOTMAL
AND ANR**

...
Mr. G.N.Chincholkar, Advocate for applicant.
Mrs. R.D.Reddy, Advocate for R-1.

...
**CORAM: V.L. ACHLIYA,J.
DATE : 10/02/2020**
...

ORAL ORDER:

1. The applicant has moved this application seeking permission to withdraw amount deposited by appellant/M.S.R.T.C.

2. Heard learned counsel for applicant and respondent No. 1/M.S.R.T.C. Perused the Judgment and Award passed by Tribunal and challenge raised in appeal.

3. In brief, it is the contention of learned counsel for appellant that appellant has good case to succeed in appeal. It is submitted that accident occurred on 24/03/2012. The

F.I.R. was lodged on 12/05/2012. Although the applicant claim that he was initially taken to Primary Health Centre, Sembal Pimpri. No evidence produced in that respect. No Doctor examined to prove the case of claimant that he suffered injuries in the accident as claimed in the application. It is submitted that the evidence as adduced is not sufficient to establish that accident was occurred in the manner alleged by claimant. Delay in lodging F.I.R. has not been explained. The possibility of false claim lodged against appellant can not be ruled out. The appellant has examined driver of bus alleged to be involved. He has categorically deposed before the Court that no accident as alleged was occurred by the bus driven by him.

4. On due consideration of submissions advanced in the light of reasons and findings recorded by trial Court and conclusions drawn that fracture injury was occurred to him, I am of the view the applicant be permitted to withdraw the amount to the extent of 50% on furnishing written undertaking. Accordingly, the following order is passed.

ORDER

- [i] Subject to out-come of appeal, the applicant is permitted to withdraw 50% amount with written undertaking that in the event the Award is set aside, the applicant shall deposit the amount within four weeks from the date of order to be passed by this Court.
- [ii] The balance amount be invested in any nationalized bank initially for the period of two years till further orders from this Court.

5. Civil Application disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

KNP