

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO.4998/2020
IN FIRST APPEAL NO.778/2020

JAVED @ JAFAR KHATIK
VERSUS
PANDIT ABHIMAN PATIL & OTHERS.

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Shri Amit S. Savale, Advocate for applicant.

Shri A.S. Usmanpurkar, Advocate for respondent no.3.

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CORAM: V.L. ACHLIYA, J.

DATE: 14.08.2020

PER COURT :

1] The applicant - claimant has moved this application seeking withdrawal of amount deposited by the appellant - insurance company for the reasons set out in detail in the application.

2] Heard learned counsel for the applicant - claimant and learned counsel for the respondent no.3 - insurance company.

3] Learned counsel for the appellant - insurance company opposed the application with contention that the amount of compensation awarded is excessive and unsustainable in law. It is submitted that the applicant - claimant is claimed to be driver by profession. The medical officer who treated the applicant and examined in the case has admitted that the claimant is fully recovered. It is further submitted that though the claimant has

claimed that the disability is 55%, but the same cannot be claimed as a permanent disability. The claimant has not surrendered driving license though he claims that he is unable to drive the vehicle on account of disability.

4] On due consideration of the submissions advanced and the challenge raised in the appeal, I am of the view that the applicant be permitted to withdraw the amount to the extent of 50% and balance amount deposited to be invested. Hence, the following order.

ORDER

A] The applicant is permitted to withdraw the amount to the extent of 50% of the amount deposited by the appellant – insurance company on furnishing undertaking to the Registrar (Judicial) to the effect that in the event the award is set aside or modified, the applicant shall deposit the amount in this Court within eight weeks from the date of passing of such order.

B] After paying the amount to the extent of 50% of the amount deposited, balance amount be invested in fixed deposit initially for a period of three years with State Bank of India with standing instructions to renew the same till further orders from the Court.

C] The amount be paid to the applicant – claimant by transferring in his savings bank account as per the particulars to be furnished by him.

D] The application is disposed of in above terms.

(V.L. ACHLIYA, J.)