

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 106 OF 2019
IN
FIRST APPEAL (ST) NO. 7074 OF 2017

Ganesh Shankar Jadhav Applicant
IN THE MATTER BETWEEN
Amarsingh Rajendrakumar Gholap Appellant
VERSUS
Ganesh Shankar Jadhav & Anr. Respondents

Mr.Tushar Sonawane, i/b. Mr.Prashant S. Hagare for the Applicant/Original Respondent no.1.

Ms.Rui Danawala, i/b. M/s. Res Juris for Appellant.

Ms.Savita Ashok Prabhune for the Respondent no.2.

CORAM : R.D. DHANUKA, J.

DATE : 29th JANUARY, 2020

P.C.

By this civil application, the applicant seeks liberty to withdraw the amount deposited by the appellant.

2. By the impugned judgment and award dated 5th July, 2016, the Tribunal has awarded a sum of Rs.23,95,000/- with interest at the rate of 9% from the date of institution of the application i.e. on 24th July, 2009 till realization of the entire amount.

3. The appellant has deposited a sum of Rs.40,46,645/- before the M.A.C.T. pursuant to the interim order passed by this court.

4. A perusal of the findings rendered by the Tribunal indicates that the applicant had suffered about 88% of physical disability. It is also

observed that the disability certificate issued by the Government of Maharashtra placed on record by the respondent no.1 speaks that this disability is permanent, non-progressive and not likely to improve.

5. The applicant has not received any amount till date. The accident had occurred on 28th May, 2007. The applicant is required to incur lot of amount on medical assistance and on the regular attendant.

6. In these circumstances, I am inclined to allow the applicant to withdraw 50% of the amount deposited by the appellant however on the condition that the applicant files an undertaking that if the appellant succeeds in the first appeal, the applicant would return the said amount that would be withdrawn with interest at such rate as this court may direct by subsequent order.

6. Such undertaking shall be filed within four weeks from today with a copy to be served upon the appellant's advocate. If the undertaking is not filed within four weeks from today, M.A.C.T. to invest the said amount if not invested so far. A copy of such undertaking shall be served upon the appellant within one week from the date of filing such undertaking.

7. Civil application is allowed on the aforesaid terms. No order as to costs.

8. The parties as well as the concerned M.A.C.T. to act on the authenticated copy of this order.

[R.D.DHANUKA, J.]