IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

3 CIVIL APPLICATION NO.2515 OF 2021
IN FA/1174/2017

RAM LAXMAN GAIKWAD
VERSUS
ANIL RAMBHAU RAUT AND ANR
...
Advocate for Applicant : Mr. Amit Mukhedkar h/f Khedkar Amol P.
Advocate for Respondent No.2 : Mr.A. B. Gatane
...

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 21-06-2021

PER COURT :

1. Present application has been filed for modification in the Judgment and order passed by this Court in First Appeal No.1174 of 2017 on 24-09-2018.

2. This Court had allowed the appeal and the compensation that was granted was to the extent of Rs.5,70,200/- together with interest. Out of this amount, 50 % was directed to be invested in fixed deposit for a period of five years. The remaining amount was directed to be paid to the claimant i.e. present applicant by account payee cheques. It appears that he has withdrawn or received the said 50 % which was directed to be paid to him. Now as regards rest of the 50 % is concerned, it is stated that amount of Rs.2,67,792 has been kept in

fixed deposit in State Bank of India, Mahavir Chowk, Aurangabad Branch in account No.38325285022.

3. Learned Advocate Mr. Mukhedkar holding for Mr. Khedkar submits that due to the COVID situation, the applicant/ appellant is unable to earn anything so also he is suffering from financial crises. He had suffered 34 % of the permanent disability due to the accident and, therefore, he prays that the amount that has been kept in fixed deposit be given to the claimant.

4. It appears that the Advocate for the insurance company was served but he is not present either virtually or by physical mode. Now it is to be noted that with some purpose so that the amount would be available to the claimant himself it appears that the condition was put that the 50 % of the amount of compensation be invested in fixed deposit. The applicant has come with a case that now he is unable to earn due to the accidental injuries. It is stated that the applicant was a mason and due to the insertion of a rod he suffered that 34 % of the permanent injury. If we peruse the decision by this Court, it appears that it did not go along with the contention of the applicant in respect of 34 % of the permanent injury, but it was held that he would have suffered permanent

disability of at least 25% or at least 25% loss in the income of the claimant is the result of the permanent disability.

5. Now in view of the fact that due to pandemic situation many persons are losing their job, at the same time keeping the interest of the applicant alive, applicant is allowed to withdraw amount of Rs.1,50,000/- from the said fixed deposit by way of premature withdrawal. As regards remaining amount is concerned, it should be kept with some fixed deposit account and be given to the applicant after its maturity which is scheduled as per the order passed by this Court. With these directions, the application stands disposed of.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.