

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION NO. 220 OF 2021
IN
FIRST APPEAL NO. 17 OF 2017

Swajay @ Amar Narahari Bhosle

... Applicant

Versus

The New India Assurance Co. Ltd., Rep. By
Divisional Manager Rishika T. Ojha

... Respondents

Mr. Nilesh V. S. Shirodkar, Advocate for the Applicant.

Mr. P. Shirodkar, Advocate holding for Mr. Amey Kakodkar,
Advocate for the Respondents.

CORAM: MANISH PITALE, J

DATED: 27th November, 2021

P.C.

1. By this application, the Applicant is seeking withdrawal of amount of ₹16,89,272/-, lying in this Court.
2. The Insurance Company has filed the Appeal challenging the Judgment and Order passed by the Motor Accident Claims Tribunal, in favour of the Respondent, Applicant herein. At the time of admission and grant of interim stay, the Insurance Company was directed to deposit the entire decretal amount. Consequently, an amount of ₹31,89,272/- was deposited.
3. It is an admitted position that by an earlier order passed in the year 2017, this Court permitted the Respondent (Applicant) to withdraw ₹ 15,00,000/-.

4. The Insurance Company has opposed the present application stating that sufficient amount was already released in favour of the Applicant and that the Appellant-Insurance Company has a very strong case to demonstrate that the impugned Judgment and Order passed by the Tribunal in favour of the Respondent is unsustainable, particularly in the light of non-examination of the Doctor.

5. This Court has considered the contents of the present application. The learned Counsel appearing for the Applicant has submitted that the Applicant has no source of income and the injury caused to him has resulted in the Applicant not being able to pursue his business and that the Applicant is facing notices from Banks for loans that he had taken.

6. Having considered the rival contentions raised on behalf of the parties, this Court is of the opinion that it would be in the interest of justice that the hearing of the Appeal is expedited and, in the meanwhile, the Applicant is permitted to withdraw a further amount of ₹ 5,00,000/- from this Court.

7. In view of the above, the application is disposed of by directing the release of ₹5,00,000/- in favour of the Applicant subject to the Applicant filing an undertaking that in the event the Appeal is allowed, the Applicant shall return the said amount to the Appellant with such interest as this Court may direct.

8. The hearing of the Appeal is expedited.

MANISH PITALE, J

ANDREZA PEREIRA Digitally signed by ANDREZA
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