Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.229 OF 2021

IN

FIRST APPEAL [STAMP] NO.11603 OF 2015

Shirish Vinayak Kelkar	**]**	**Applicant**
Vs.		
The New India Assurance Co. Ltd.	**]**	
and another.	**]**	**Respondents**

<u>IN THE MATTER BETWEEN</u>:

The New India Assurance Co. Ltd.	**]**	**Appellant**
Vs.		
Shirish Vinayak Kelkar and another.	**]**	**Respondents**

.....

Mr. T.J. Mendon, for Applicant.

Mr. D.R. Mahadik, for Respondent.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 3rd FEBRUARY, 2021.

P.C:

1. This is an application for withdrawal of the amount of compensation deposited by the respondent-original appellant in M.A.C.T, Mangaon, Dist. Raigad.

2. The Tribunal had awarded a sum of Rs.11,90,122/- inclusive of amount paid under no fault liability with interest @ 7.5% per annum from the date of the application till it's realization.

3. It is submitted by Mr. Mendon that at the time of the accident, the applicant was 46 years of age and was T.V Mechanic. Due to amputation of his left arm and after having undergone several surgical operations, the applicant has now no source of income. He is now unable to do his profession. He had incurred expenses to the tune of Rs.1,13,640/- towards medical treatment. He has also required some amount for his future medical treatment as well as day-to-day expenses.

4. Mr. Mahadik, however, objects for withdrawal of the amount and brings to my notice that earlier by an order dated 11th June, 2015, this Court (Coram: K.K. Tated, J.) permitted withdrawal of the amount of Rs.2,50,000/- with accrued interest. However, this fact has not been brought to the notice of this Court by the applicant in his application.

5. Considering the reasons assigned in the application, the applicant is permitted to withdraw 30% of the amount deposited by the respondent-insurer before the concerned M.A.C.T with accrued interest, upon furnishing an undertaking that if the respondent-insurer succeeds in the appeal, the applicants shall return the amount with interest at such rate as would be directed by this Court, depending upon the outcome of the first appeal.

6. The undertaking shall be filed at the time of withdrawal of the amount.

7. If the applicant does not file an undertaking within the aforesaid period, the amount deposited by the respondent-insurer shall be invested by the M.A.C.T in the fixed deposit of a Nationalized Bank for a period of one year and thereafter for one more year again after obtaining order from this Court.

8. If 30% amount is withdrawn by the applicant, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.

9. The application stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]