

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3810 OF 2019
IN
FIRST APPEAL (ST.) NO.17177 OF 2017

VISHAL
SUBHASH
PAREKAR

Digitally signed by
VISHAL SUBHASH
PAREKAR
Date: 2021.10.28
10:36:30 +0530

Sagar Ramakant Chevale

...Applicant

vs.

IFCO Tokiya General Insurance Co.Ltd.

...Respondent

Mr. Rajan Pawar, for the Applicant.

Ms. Deepika Prabhala i/b. Res Juris, for the Respondent.

CORAM : N. J. JAMADAR, J.

DATE : OCTOBER 27, 2021

P.C.:

. Heard the learned counsel for the parties.

2. This is an application for withdrawal of the amount of compensation deposited by the insurer/appellant in terms of the award in MACP No. 238 of 2012 dated 9th December, 2016 passed by the learned Member, MACT, Nashik.

3. It is the claim of the applicant that the applicant suffered 20% permanent disability. The applicant requires the amount to meet the necessities of life.

4. The learned counsel for the appellant/insurer resisted the application on the ground that the applicant/claimant is not entitled to claim compensation as the applicant was borrower of the vehicle from the owner and thus stepped into the shoes of the

owner. The learned counsel for the appellant/insurer thus prayed that the appeal itself may be heard finally.

5. The submission on behalf of the appellant/insurer as regards the liability of the appellant to pay the compensation can be considered on merits. It is imperative to note that the accident occurred on 18th September, 2010 and the impugned order came to be passed on 9th December, 2016. Though there can be no hindrance in hearing the appeal finally at the stage of admission, yet, the applicant cannot be kept away from the compensation, totally.

Hence the following order.

ORDER

- 1] The application stands partly allowed.
- 2] The applicant is permitted to withdraw a sum of Rs. 1,00,000/- along with interest accrued thereon till date, subject to furnishing an undertaking, before the Tribunal, to bring back the amount in the event the appeal is allowed and it is held that the applicant-claimant is not entitled to the compensation.
- 3] Application stands disposed of.

(N. J. JAMADAR, J.)