

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 3032 OF 2021
IN
FIRST APPEAL NO. 541 OF 2019**

SANTOSH
SUBHASH
KULKARNI

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Date: 2021.10.27
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Aman Aazam Mulla (Mulani) & ors. ...Applicants

In the matter between

Shriram General Insurance Co. Ltd. ...Appellant

Versus

Aman Aazam Mulla (Mulani) & ors. ...Respondents

Mr. Rajesh Jadhav, for the Applicants/Respondents.

Mr. Nikhil Mehta, i/b KMC Legal Venture, for the Respondent
in IA/Appellant in FA.

CORAM: N. J. JAMADAR, J.

DATED : 25th OCTOBER, 2021

PC:-

1. Heard Mr. Jadhav, the learned Counsel for the applicants/
original respondents and Mr. Mehta, the learned Counsel the
respondent – appellant – insurer.

2. This application is preferred seeking permission to
withdraw the amount of compensation deposited by the
appellant – insurer in terms of the Award in MACP No.47/2013,
dated 27th June, 2018, passed by the learned Member, MACT,
Pandharpur.

3. The learned Counsel for the appellants – insurer resisted
the application on the ground that there is a fair chance of
success in the appeal and in the event the amount is allowed to

be withdrawn and, subsequently, appeal is allowed, the insurer would suffer prejudice.

4. The grounds raised by the appellant – insurer assailing the legality, propriety and correctness of the impugned Award can be legitimately considered at the stage of adjudication of the appeal. At this stage, in the backdrop of the reasons assigned in the application, the claim of the applicant that he requires the amount to meet the necessities of life, cannot be said to be unreasonable. It would therefore be expedient in the interest of justice to allow the applicant to withdraw a portion of the amount of compensation deposited by the appellant – insurer subject to furnishing an undertaking to bring back the said amount, in the event the appeal is allowed and it is held that the applicant is not entitled to compensation.

5. Hence the following order:

: O r d e r :

- (i) The application stands partly allowed.
- (ii) The applicant is entitled to withdraw 80% of the amount of the compensation deposited by the appellant – insurer alongwith interest accrued thereon, subject to furnishing an undertaking before the learned Member, MACT, Pandharpur, to bring back the said amount alongwith interest at such rate

as may be decided by the Court, in the event the appeal is allowed and it is held that the applicant is not entitled to compensation.

(iii) The application stands disposed of.

[N. J. JAMADAR, J.]