

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1581 OF 2021
(for withdrawal)
IN
FIRST APPEAL (ST.) 3542 OF 2021

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Kamal Gendev Gaikwad ... Applicant

Vs.

Maharashtra State Road Transport
Corporation, Vahatuk Bhavan, Mumbai ...Respondent

Ms.Varsha Chavan for applicant in IA.
Mr.Nitesh Bhutekar for respondent/orig.appellant.

CORAM : N. J. JAMADAR, J.
DATE : 17th DECEMBER, 2021

P.C.:

1. Heard the learned counsel for the applicant-original claimant and the learned counsel for the appellant.
2. The learned counsel for the appellant resisted the prayer for withdrawal of the amount of compensation deposited by the appellant in terms of the impugned judgment and award dated 17th October 2019 in MACA No. 296 of 2014. It was urged that the aspect of negligence has not been properly appreciated by the tribunal.
3. The said ground can be legitimately considered at the time of final hearing of the appeal. In the meanwhile, having regard to the date of the accident and the amount of compensation awarded by

the tribunal, the applicant can be permitted to withdraw a portion of the amount of compensation subject to furnishing an undertaking.

4. In view of above, the applicant-original claimant is permitted to withdraw 50% amount of compensation deposited by the appellant alongwith the interest accrued thereon, subject to furnishing an undertaking before the tribunal that the applicant will bring back the said amount alongwith interest at such rate as may be decided by this Court, in case the appeal is allowed and it is held that the applicant is not entitled the compensation.

5. The application stands disposed of.

(N. J. JAMADAR, J.)