IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2252 OF 2021
IN
FIRST APPEAL (ST) NO.32750 OF 2016

Padmakar Ramdas Thakur ..Applicant

IN THE MATTER BETWEEN

Bajaj Allianz General Insurance Company Ltd ..Appellant
Vs.
Padmakar Ramdas Thakur & Ors. ..Respondents

Ms.Yogita M. Deshmukh for the Applicant in IA No.2252 of 2021 and for the Respondents in FAST No.32750 of 2016.
Mr.T.J. Mendon for the Appellant in FAST No.32750 of 2016.

CORAM : C.V. BHADANG, J.

DATE : 8 SEPTEMBER 2021

P.C.

. This is an application for withdrawal of the amount of compensation deposited by the respondent-insurance company.

2. According to the applicant/claimant he had suffered 40% permanent disability is vehicular accident. The Tribunal has awarded Rs.2,75,776/- with interest at the rate of 8% per annum as compensation. The respondent-insurance company has deposited an amount of Rs.4,49,384/- before the Tribunal.

3. I have heard the learned counsel for the applicant and the learned counsel for the respondent-insurance company.

4. The learned counsel for the respondent-insurance company points out that there is no acceptable evidence to show that the applicant has suffered functional disability. The learned counsel has pointed out paragraph 13 of the impugned award, in order to submit that the Medical Officer who has been examined states that there were no x-ray plates produced to show that the applicant had suffered any fracture. The Medical Officer has also stated that the fracture had already united and the percentage of the disability can improve upon physiotherapy. It is pointed out that the accident had occurred on 2 December 2008 and the medical certificate is issued in July 2009. The Medical Officer has not treated the applicant/claimant.

5. Considering the overall circumstances, I find that the some partial withdrawal can be allowed. In such circumstances, the applicant is permitted to withdraw an amount of Rs.3 lakhs from the amount deposited before the Tribunal. The remaining amount shall continue to stay invested.

6. The interim application is disposed of.

C.V. BHADANG, J.