

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

Civil Application No.2653 of 2019

In

First Appeal (Stamp)no.28038 of 2017

Bablu Mushtaque Shaikh ... Applicant.

Vs.

Divisional Officer, Shriram G.I.C. & Anr. ... Respondents.

IN THE MATTER BETWEEN:

Divisional Officer, Shriram G.I.C. ... Appellant.

Vs.

Bablu Mushtaque Shaikh & Anr. ... Respondents.

.....

Mr.Pritesh Bohade, Advocate for the applicant.

Mr.Rahul Mehta, Advocate i/b KMC Legal Venture for respondents/appellant.

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 1st FEBRUARY, 2021.

P.C.:

1. This is an application seeking withdrawal of amount of compensation deposited by the appellant/insurer in M.A.C.T., Nashik to the tune of Rs.63,315/-.

2. According to the learned Counsel for the applicant, entire life of applicant has been disturbed as sole earning member of

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the family has died in motor vehicle accident. The applicant is suffering from trauma and find it difficult to meet both ends. The applicant has, therefore, prayed for withdrawal of the entire amount of compensation.

3. Mr.Rahul Mehta, the learned Counsel for the appellant/insurer objects withdrawal by contending that the appellant has good case on merits as the deceased was travelling as a gratuitous passenger in a vehicle carrying goods.

4. Having considered the submissions made at bar, at this stage, looking to the ages of the applicant and the widow , it would be just and proper to permit the applicant to withdraw 50% of the amount of compensation with accrued interest. The applicant shall at the time of withdrawal of 50% amount, given an Undertaking that in case, the appeal succeeds, they will refund the amount of compensation to the tribunal. Undertaking shall be given within two weeks from the date of withdrawal of amount.

5. After withdrawal of 50% of the amount, balance amount shall be invested in a Fixed Deposit in any Nationalized Bank for the period of one year.

6. The same shall again be invested for one more year after obtaining order from this Court.

7. The application is disposed of.

(PRITHVIRAJ K.CHAVAN J.)