Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3399 OF 2017

IN

FIRST APPEAL NO.1686 OF 2016

Amey Abhay Mogre	**]**	**Applicant**
Vs.		
Prashant Sakharam Khavale and another	**]**	**Respondents**

IN THE MATTER BETWEEN:

Reliance General Insurance	**]**	
Company Limited.	**]**	**Appellant**
Vs.		
Amey Abhay Mogre and another.	**]**	**Respondents**

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Mr. S.S. Vidyarthi a/w Ms. Ruchika Dave, for Applicant.

Ms. Deepika Prabhala i/b Res Juris, for Respondent No.2-Insurer.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 30th MARCH, 2021.

P.C.

1. This is an application by the applicant-claimant seeking withdrawal of the balance 50% of the amount of compensation with accrued interest.

2. Heard Mr. Vidyarthi, learned Counsel for the applicant.

3. In the application, it is stated by the applicant that he is in dire need of money. He is stated to have been paraplegic who has no control over his bowel and bladder. He is still bed ridden and is not in a position to stand, sit or walk and substantial expenses were incurred for his medical treatment. As on today also, he requires the medical treatment. He, therefore, prays for permitting him to withdraw the balance amount of compensation.

4. Learned Counsel for the respondent-insurer submits that the respondent-insurer has a good case on merits. In view of the fact that 50% amount has already been permitted to be withdrawn on 1st October, 2016, the applicant may not be permitted to withdraw the balance amount.

5. Having considered the reasons stated in the application and objection raised by learned Counsel for the respondent-insurer, at this stage, the applicant is permitted to withdraw 40% amount out of remaining 50% amount with accrued interest, upon furnishing an undertaking at the time of withdrawing the amount before the Tribunal that if the respondent-insurer succeeds in the appeal, he will refund the amount with interest at such rate as would be directed by this Court depending upon the outcome of the first appeal.

6. If the applicant does not file an undertaking at the time of withdrawing the amount, the amount deposited by the respondent-insurer shall be invested by the M.A.C.T in the fixed deposit of a Nationalized Bank for a period of one year and

thereafter for one more year again after obtaining an order from this Court.

7. If 40% amount is withdrawn by the applicant, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.

8. The application stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]