

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4063 OF 2021
IN
FIRST APPEAL NO. 249 OF 2021

Deepak Ladkoj Chande

... Applicant

IN THE MATTER OF :-

Bajaj Allianz Gen. Ins. Co. Ltd.

...Appellant

Versus

Deepak Ladkoj Chande & Anr.

...Respondent

Mr. C. M. Lokesh i/by Mr. Tejpal S. Ingale, for the Applicant in both Interim Application.

Mr. Tushar Bendale a/w Ms. Garima Joshi i/by GNP Legal for the Org. Appellant.

CORAM : N. J. JAMADAR, J.

DATE : 15th DECEMBER, 2021.

P.C.:

INTERIM APPLICATION NO. 4063 OF 2021

1. Heard the learned counsel for the applicant-original claimant and Respondent No.1 - insurer.

2. The learned counsel for the appellant-insurer resisted the prayer for withdrawal of the amount on the ground that the appellant has assailed impugned award for the failure to properly appreciate the issue of negligence on the part of the driver of the offending vehicle.

3. The contention on behalf of the appellant-insurer can be

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legitimately considered at the stage of final hearing of the appeal.

4. In the meanwhile, the applicant-claimant can be permitted to withdraw a portion of the amount of compensation subject to furnishing an undertaking to bring back the amount, in the event the appeal is allowed.

5. Hence, the following order:

: O R D E R :

- (i) The application stands partly allowed.
- (ii) The applicant-claimant is permitted to withdraw 50% of the amount of compensation along with interest accrued thereon in terms of the impugned award in MACP No.543 of 2016, dated 8th January, 2020, passed by learned Member, MACT, Thane, subject to furnishing an undertaking before the Tribunal to bring back the said amount along with interest, at such rate as may be decided by this 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.)