Uday S. Jagtap

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 904 OF 2019
IN
FIRST APPEAL NO. 1221 OF 2019

Shivkumar Sahebrao Jagtap .. Applicant
In the matter between
The New India Assurance Co. Ltd. & Ors. .. Appellant
Vs.
The New India Assurance Co. Ltd. & Ors. .. Respondents
.....
Mr. Ghanasham S. Jadhav for the applicant
Ms. Poonam Mital for the appellant - insurer

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 2nd FEBRUARY, 2021

P.C.

1. This is an application for withdrawal of the entire amount of compensation with accrued interest by the applicant – original claimant.

2. The M.A.C.T., Baramati by judgment and award dated 26th February, 2018 passed in M.A.C.P. No. 191 of 2015 awarded compensation of Rs.13,37,000/- with interest at the rate of 9% p.a. to the claimants from the date of filing of the claim till its realization.

3. Mr. Jadhav, learned Counsel for the applicant submits that the entire amount of compensation be allowed to be withdrawn for the reason that the applicant sustained multiple grievous injuries and was admitted in the hospital. The applicant had incurred Rs.7,00,000/- for the medical treatment. Since he had suffered 61%

permanent physical disability as his both lower limbs are completely damaged, it has resulted into loss of earning capacity to the extent of 100%.

4. The learned Counsel for the appellant – insurer however, objects for withdrawal of the entire amount of compensation.

5. Taking into consideration the aforesaid facts, the applicant is permitted to withdraw 60% of the amount of compensation with accrued interest. The applicant shall furnish an undertaking within two week that if the appellant - insurer succeeds in appeal, the applicant shall return 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 within the aforesaid period, the amount deposited by the appellant - insurer shall be invested by the M.A.C.T in a fixed deposit in any Nationalized Bank for a period of one year and thereafter for one more year again after obtaining order from this Court.

7. If 60% amount is withdrawn by the applicant, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.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.)