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920- C.A. No. 2007-2022

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 2007 OF 2022
IN
FIRST APPEAL NO. 2578 OF 2021**

Munjaji Vishwanath Bhalerao	.. Applicant
Versus	
The Oriental Insurance Co. Ltd	
Through its Manager, Parbhani	
and Others.	.. Respondents

...
Advocate for the Applicant : Mr. S. B. Ghatol Patil
Advocate for Respondents : Mr. A.G. Kanade
...

CORAM : VINAY JOSHI, J.
DATE : 23-02-2022

P. C.

. This is an application of original claimant (respondent) seeking for withdrawal of compensation amount. It was injury claim of the applicant who while traveling by Auto Rikshaw as passenger, Rikshaw gave dash to other vehicle. The applicant sustained 30% permanent disablement in said accident. The tribunal has assessed total compensation to the tune of Rs. 4,17,360/- to be paid along with interest. The learned counsel for the

respondent has submitted that the Insurance Company has deposited amount of Rs. 5,29, 230/- in this Court.

2. The learned counsel appearing for the Insurance Company resisted for withdrawal of the amount. It is submitted that there was breach of terms and condition of insurance policy as the Auto Rikshaw was plied without valid permit. Secondly, it is argued that despite cogent evidence, the tribunal has held notional income at the rate of Rs. 8,000/- per month which is at higher side.

3. On the other hand, the learned counsel for the applicant has pointed out that the deceased was mere occupant of the vehicle and as the involvement of Auto Rikshaw is proved there is no question of negligence. He would submit that deceased has lost his earning capacity due to accidental injury. Perused impugned Judgment with special reference to paragraph No. 12 wherein the tribunal has assessed compensation by invoking multiplier method.

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4. Having regard to these facts and grounds contended in appeal, the applicant is permitted to withdraw 50% of the deposited amount on usual undertaking and 25% on furnishing surety to the satisfaction of the learned Registrar (Judicial).
5. Application stands disposed of.

[VINAY JOSHI, J.]

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