

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

CIVIL APPLICATION NO.4206 OF 2021 IN FAST/27375/2019

UJWALA DIGAMBAR KAMBLE

VERSUS

CHOLAMANDALAM GENERAL INSURANCE CO. LTD., THROUGH
ITS LEGAL MANAGER, AURANGABAD AND OTHERS

....

H.I. Pathan, Advocate Applicant

Mr. Abhijit G. Choudhari, Advocate for Respondent Nos. 1 and 2

....

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 04th JANUARY, 2022

PER COURT:-

1. It is an application for withdrawal of amount moved by the applicant / original claimant.
2. Heard Mr. Pathan, learned counsel for the applicant / original claimant and Mr. A.B. Choudhari, learned counsel for respondent nos. 1 and 2. None present for respondent no.3.
3. Respondent no.1 has deposited the entire amount under the impugned judgment and award with accrued interest thereon. The applicant is seeking permission to withdraw the entire mount.
4. Mr. Choudhari, learned counsel for respondent nos.1 and 2 strongly opposed to allow this application mainly on the ground that the case in hand does not fall under the category of permanent

disability case. The Tribunal has not considered the evidence in a proper perspective and arrived at incorrect conclusion. There is involvement of two vehicles, but the Tribunal has turned down that plea. By taking help of the above said plea, Mr. Choudhari opposed to allow this application.

5. Per contra, Mr. Pathan, learned counsel for the applicant submits that the applicant / claimant has proved her case of permanent disability and she is entitled to withdraw the entire amount.

6. I have considered the submissions of learned counsel for both the sides as well as perused the impugned judgment and award passed in M.A.C.P. No.227/2017. The learned Tribunal while allowing the claim partly was pleased to held that the claimant has sustained 30% permanent disability. That finding is disputed by the insurance company. Be that as it may, other aspects are not disputed.

7. Having regard to the case of permanent disability put forth by the applicant / claimant, she is entitled to withdraw 50% of the amount with accrued interest thereon deposited by the insurance company / respondent no.1 on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court. It may protect the interest of the insurance company.

ORDER

(i) The application for withdrawal of amount is hereby allowed.

(ii) The applicant is permitted to withdraw 50% of the amount of compensation with accrued interest thereon deposited by the insurance company / respondent nos.1 and 2 with this Court on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

(iii) Remaining 50% of the amount of compensation with accrued interest thereon shall be invested in the fixed deposit with any nationalized Bank initially for a period of two years with clause of renewal.

(iv) Civil application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane