

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

**936 CIVIL APPLICATION NO.5290 OF 2022
IN
FA/2832/2021**

**MADHAV SHRIRANG PATULE
VERSUS
THE NEW INDIA ASSURANCE CO. LTD., THROUGH ITS
BRANCH MANAGER, AHMEDNAGAR AND OTHERS**

...

Advocate for Applicant: Mr. Hemant U Dhage
Advocate for Respondent No.1: Mr. M. R. Deshmukh

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CORAM: SHRIKANT D. KULKARNI, J.

DATE: 08th APRIL, 2022

PER COURT:

1. It is an application for withdrawal of compensation amount moved by the applicant / original claimant.

2. Heard Mr. Hemant U. Dhage, learned Counsel for the applicant / claimant and Mr. M. R. Deshmukh, learned Counsel for Respondent No.1 / Insurance Company. Perused the impugned judgment and award passed in M.A.C.P. No.441 of 2016 by the Member, M.A.C.T., Ahmednagar.

3. It is revealed during the course of argument that the Insurance Company has challenged the impugned Judgment and Award passed by the Tribunal mainly on the ground of-

(i) quantum of compensation on account of medical expenses and permanent disability;
and

(ii) the driver was not holding valid driving licence to drive the vehicle in question on the date of accident.

4. Mr. Hemant U. Dhage, learned Counsel for the applicant / claimant invited my attention to the relevant portion of the impugned judgment passed by the Tribunal and submitted that the offending vehicle driver was holding valid and effective driving licence on the date of accident. The Tribunal has turned down the defence raised by the Insurance Company by relying upon citation of the Apex Court. He submitted that the applicant is a injured person and incurred more than Rs.6,00,000/- for his medical treatment and he is

in need of money and urged to allow the entire amount of compensation.

5. On the other hand Mr. M. R. Deshmukh, learned Counsel for the Insurance Company strongly opposed to allow this application in view of the grounds of appeal raised in the appeal memo. He invited my attention to the extract of the driving licence of offending vehicle driver and the evidence of a witness from the R.T.O. department in support of his submissions.

6. Having considered the submissions of learned Counsel for both the sides and on going through the finding recorded by the Tribunal, the Tribunal seems to have *prima facie* turned down the evidence raised on behalf of the Insurance Company by recording the reasons and that too by relying citations of the Apex Court. The defence raised by by the Insurance Company in the appeal would be taken into consideration at the time of final hearing of the appeal. It is an injury claim and the claimant needs money. Having considered these

aspects and looking to the injury claim, I am convinced to allow this application to the extent of 50% of the amount of compensation with interest.

ORDER

[I] The application is hereby allowed.

[II] The applicant / claimant is hereby permitted to withdraw 50% of the amount with accrued interest thereon subject to furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

7. Civil Application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

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