

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

CIVIL APPLICATION NO. 8555 OF 2022
IN
FIRST APPEAL 491 OF 2022

DINESH WAMAN SONAWANE
VERSUS
BAJAJ ALLIANCE GENERAL INSURANCE
CO. LTD THRU ITS REGIONAL MANAGER
AURANGABAD AND OTHERS

....
Advocate for the applicant : Mr. P. C. Mayure
Advocate for respondent No.1 : Mr. S.G.Chapalgaonkar
....

**CORAM : S. G. DIGE, J.
DATE : 17.08.2022**

PER COURT :-

Heard learned counsel for the applicant and learned counsel for respondent No.1.

2. Learned counsel for the applicant submits that, respondent No.1 has challenged the order of learned Member, Motor Accident Claims Tribunal, Dhule. Respondent No.1 has deposited entire award amount before this Court. Due to accident, the applicant has suffered permanent disability and he is not in a position to do any work. He has lost his earning capacity. Amount of more than Rs. 12,00,000/- is expended for hospital and medical bills. He has taken the said amount by borrowing the loan. Hence requested to allow the application.

3. Learned counsel for respondent No.1 has submitted that, the First Information Report is filed after 22 days only on the basis of passing GJ i.e. Gujarat passing. Respondent No.1 is disputing the involvement of the vehicle in the said accident. The Court has considered the income of the applicant on higher side i.e. Rs. 30,000/- per month. There is only 30% disability considered by the Tribunal and has granted compensation of Rs. 27,54,000/- and respondent No.1 has deposited more than Rs. 40,00,000/- before this Court. The respondent No.1 has a good case. If the applicants are allowed to withdraw the amount and respondent No.1 succeed in the appeal, then it would be difficult for the respondent No.1 to recover the amount. Hence requested to dismiss the application.

4. I have heard both the learned counsel. It is the contention of the applicant that, due to accident, he got permanently disabled and he has no source of income. He has spent more than Rs. 12,00,000/- for medical treatment and hospitalization. He has taken a loan he had to repay the said amount. He has no source of income. Considering this fact, I pass the following order.

ORDER

(i) The applicant is permitted to withdraw Rs. 15,00,000/- out

of amount deposited by respondent No.1 on furnishing undertaking.

(ii) The applicant is permitted to withdraw Rs. 5,00,000/- out of deposited amount on furnishing solvent surety/ security.

(iii) The application is disposed of.

**(S.G. DIGE,)
JUDGE**

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