

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 CIVIL APPLICATION NO.10652 OF 2022
IN FA/1029/2022

VISHALDATTA BAPUSAHEB GULVEPATIL
VERSUS
THE UNITED INDIA INSURANCE CO. LTD.,
AHMEDNAGAR AND OTHERS

...
Advocate for Applicant : Mr. V.S. Bedre h/f. Mr. Shinde S.K.
Advocate for the respondent no. 1 : Mr. M.R. Deshmukh
Advocate for the respondent no. 2 : Mrs. Fatima Kazi h/f. Mr. S.S. Kazi
...

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 26 AUGUST 2022

PC :

This is an application by the original claimant for withdrawal of the amount of compensation deposited by the respondent – Insurance Company which has preferred the appeal against the judgment and award of the Motor Accident Claims Tribunal holding the applicant to have become 100% disabled. The compensation has been assessed at Rs.87,06,400/- which is directed to be paid with interest @ 7% per annum.

2. Admittedly, the Insurance Company has deposited amount of Rs.1,38,00,000/- in this Court.

3. Learned advocate Mr. Bedre for the claimant would submit that the applicant was a medical practitioner and has lost the vision

completely. The Tribunal has rightly assessed the compensation taking into account his possible income of Rs.800/- per day on the basis of objective evidence led before the Tribunal. The applicant needs the amount.

4. The learned advocate for the insurance company strongly opposes the request. He submits that the Tribunal has not assessed the compensation correctly. Without there being concrete evidence, loss of income has been determined on the basis of rough estimate. Even there was no concrete evidence regarding 100% disability. The medical expenses incurred were barely Rs.6,00,000/-. There is every possibility of this Court reducing the compensation.

5. We have carefully gone through the papers. The Tribunal has granted the compensation apparently on the basis of medical evidence regarding 100% disability on account of complete loss of vision. Certificate of District Hospital was also produced on record. Conclusion regarding the income from the medical practice was also drawn on the basis of some evidence.

6. It is a matter of motor accident claim. The First Appeal is unlikely to be heard in the near future.

7. The claimant cannot be deprived of the benefit of the award. The Tribunal had occasion to examine the record and

determine the compensation. It would be appropriate that he is allowed to withdraw the amount of compensation which may not be full.

8. We, therefore, allow the application partly and allow the petitioner to withdraw Rs.1,00,00,000/- (Rs. One Crore) by furnishing undertaking to the tune of Rs.50,00,000/- (Rs. Fifty Lakh) in usual terms to return back the money in case it is so ordered in the future and furnishing solvent surety to the tune of Rs.50,00,000/-(Rs. Fifty Lakh), before the Registrar (Judicial) of this Court.

[SANDEEP V. MARNE]
JUDGE

[MANGESH S. PATIL]
JUDGE

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