

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

918 CIVIL APPLICATION NO.2432 OF 2022
IN FA/2413/2020

SURESH PANDHARINATH PAWAR
VERSUS
ALI AHAMAD HYADALI CHAUDHARI AND ANOTHER

...
Advocate for Applicants : Mr. Jitendra V. Patil.
Advocate for Respondent No.2 : Mr. S. S. Patil.
...

CORAM : **SHRIKANT D. KULKARNI, J.**
DATE : 03rd March, 2022.

P.C.:

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

2 Heard Mr. Jitendra Patil, learned counsel for the applicant and Mr. S. S. Patil, learned counsel for respondent No.2/insurance company.

3 Mr. Jitendra Patil, learned counsel for the applicant seeks withdrawal of entire amount of compensation deposited by the insurance company on account of right leg amputation of the applicant/claimant and left hand, which is permanently disabled.

4 Mr. S. S. Patil, learned counsel for respondent Nos.2/insurance company opposed to allow this application. He submitted that the

insurance company has raised two fold defences, one, case of contributory negligence and second, exorbitant compensation awarded by the Tribunal.

5 It is revealed during the course of argument that the Tribunal was pleased to award compensation of Rs.13,47,400/- with interest at the rate of 7.5% per annum from the date of petition and the liability is fastened on the owner and insurer of the vehicle involved in the accident. The appellant/insurance company has deposited entire amount of compensation with interest in this Court, which comes to Rs.18,41,751/-.

6 On going through the impugned judgment, paragraph 28, it is *prima-facie* evident that the Tribunal has accepted the permanent disability of the applicant at 65% and accordingly, assessed the compensation. By considering this aspect and looking to the defence raised by the insurance company, I am of the view that if applicant/original claimant is permitted to withdraw 50% of the amount of compensation with interest, it would meet the ends of justice. Hence, the following order is passed:

ORDER

- I. The application is hereby allowed.

- II. The applicant / original claimant is permitted to withdraw 50% of the amount of compensation with accrued interest thereon on furnishing usual undertaking with the Registrar (Judicial) of this Court.
- III. The remaining 50% balance amount shall be invested in fixed deposit account in any Nationalized Bank initially for a period of one year with renewal clause.
- V. The civil application is disposed of accordingly.

[SHRIKANT D. KULKARNI, J.]

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