

Corrected in terms of the order dated 07/04/2022

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1679 OF 2022
IN
FIRST APPEAL (ST) NO. 3438 OF 2022**

Amit Kumar

.. Applicant

Versus

Brihan Mumbai Mahanagar Palika, .. Respondent
B.E.S.T. Undertaking, Mumbai

...

Mr.T.J.Mendon for the Applicant.

Mr.Arsh Misra i/b M.V.Kini & Co. for the Respondent

...

CORAM: BHARATI DANGRE, J.

DATED : 21st MARCH, 2022

P.C:-

1. By the present application, the applicant (respondent/claimant) who has sustained a permanent disability, seeks withdrawal of the amount of compensation deposited in terms of the order dated 17/02/2022, subject to which the execution of the impugned judgment was stayed.

2. Heard Mr.Mendon for the applicant, who has invited my attention to the impugned judgment which has awarded a compensation to the tune of Rs.61,26,839/- and this

compensation is directed to be paid alongwith the interest at the rate of 5% p.a.. Accordingly, an amount of Rs.86,59,855/- is deposited before the Tribunal.

3. The applicant sustained an injury in the accident and considering the nature of his disability, the Tribunal has concluded that he suffers from a 100% functional disablement. The applicant, who has filed his affidavit before the Tribunal, categorically mentioned that there was an amputation of his right leg, resultantly, he is unable to walk, drive or even travel by public transport. In short, he is unable to carry out any independent activity, without support. Since, it is pleaded that he is unable to continue his avocation, the compensation has been awarded.

Taking into consideration his incapacity to earn and his dependence, the application deserves to be allowed by allowing the applicant to withdraw 50% of the amount that has been deposited by the appellant in the Tribunal. The application is made absolute in terms of prayer clause (a).

The Tribunal shall permit withdrawal of the amount, subject to an undertaking submitted by the applicant that in case, this Court decides the appeal in favour of the appellant, he shall remit back the said amount alongwith the interest that would be decided at the time of hearing of the Appeal.

(SMT. BHARATI DANGRE, J.)