

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

***CIVIL APPLICATION NO.2581 OF 2019
IN
FIRST APPEAL NO.475 OF 2000***

Dnyaneshwar Mangesh Bagkar ...Applicant

IN THE MATTER BETWEEN

The Union of India ...Appellant

Vs

Dnyaneshwar Mangesh Bagkar ... Respondent

...

Mr. Y.S. Bhate for the Appellant.

Ms. Kavita Anchan i/by Mr. Vishal Dhende for the
Applicant/Respondent.

CORAM : SANDEEP K. SHINDE J.

DATE : JANUARY 31, 2022.

(Through Video Conferencing)

P.C. :

Heard learned counsel for the parties.

2 Mr. Dnyaneshwar Mangesh Bagkar (Original
Claimant/Respondent herein), seeks leave to withdraw the amount of
compensation deposited by the Union of India (Appellant) pursuant to
the judgment and award dated 21st April, 1994 passed in Motor

Accident Claims Application No.2023 of 1988.

3 Indisputably, the Union of India did not cause its appearance in the proceedings, although served, and, therefore, claim was decided ex-parte. Two years later, Union of India moved the application, i.e., on 22nd April, 1996 seeking order to set aside the ex-parte award. That application was rejected by the Tribunal on 11th August, 1998.

4 Accident, which gave rise to this claim application had occurred on February, 1988. Applicant suffered 35% permanent disability. He was admitted in the hospital as indoor patient on 24th February, 1988 and discharged on 10th April, 1988. Today, he is 71 year old person.

5 This Court vide order dated 7th April, 2000 permitted the applicant to withdraw Rs.1,65,965/- without furnishing security.

6 Instant application has been moved for withdrawing

balance amount, presently invested in fixed deposits, with the State Bank of India.

7 The Union of India has vehemently opposed the application vide reply filed by the Under Secretary, Government of India, Atomic Energy.

8 It may be stated that the accident in question had taken place 34 years before, wherein claimant has suffered 35% disability and since then, he has been deprived of the compensation awarded to him. The Union of India did not contest the claim application although panel counsel caused appearance in the proceedings. The First Appeal is pending in this Court since 2000, however, Union of India has not taken efforts to circulate the First Appeal, for final hearing.

9 In any event, applicant is now 71 year old person suffering 35% permanent disability. Applicant has also filed Undertaking that in case, the Union of India succeeds in the First

Appeal, he shall bring back the compensation amount withdrawn by him.

10 In consideration of the facts of the case, application is allowed. The applicant is permitted to withdraw the remaining amount of compensation with interest accrued thereon on furnishing Undertaking that in case, the Union of India, succeeds in the appeal, he shall re-deposit the amount, with the Tribunal.

11 Application is allowed and disposed of in the aforesaid terms.

(SANDEEP K. SHINDE, J.)