

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

INTERIM APPLICATION NO. 16601 OF 2022
IN
FIRST APPEAL NO. 748 OF 2017

Smt. Prajakta Prakash Kulkarni
w/o. Vijay Deshmukh

..Applicant.

v/s.

Bharati Axa General Insurance Co. Ltd.

..Respondents

Mr. Uday Nighot for the Applicant.

Mr. Nikhil Mehta i/b. KMC Legal Venture for the Respondent Insurance Co.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 16th NOVEMBER, 2022.**

P.C.

1. The Applicant-Original Claimant has sought withdrawal of the balance amount deposited by the Appellant Insurance Company.
2. The Applicant had filed Claim Petition under Section 166 of the Motor Vehicles Act in view of the injuries sustained in a motor vehicular accident. By the impugned judgment, the Claims Tribunal has awarded compensation of Rs.80,75,400/- with interest @ 9% per anum from the date of petition till realization.
3. By order dated 5.12.2017 this Court had allowed the application to withdraw Rs.30 Lakhs along with interest accrued thereon. Learned Counsel for the Applicant states that the Applicant is in need of money for further treatment.

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4. The challenge to the impugned judgment is restricted to the quantum of compensation and breach of terms and conditions of the policy viz. driving the vehicle on the strength of a fake driving license. The records reveal that the Claimant has sustained permanent disablement of 90% and the Tribunal has assessed the functional disablement at 100%. The impugned judgment also reveals that the Tribunal has not considered future prospects. It is stated that the Applicant has no other source of income.

5. Considering the above facts and circumstances, particularly the fact that the Applicant claimant needs the money for further treatment, and she has no other source of income, the Applicant is permitted to withdraw 50% of the balance compensation with proportionate interest accrued thereon, subject to filing an undertaking that the amount will be refunded with interest, in the event the Appellant succeeds in the appeal.

6. Application stands disposed of.

(ANUJA PRABHUDESSAI, J.)