

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 172 OF 2022
WITH
CIVIL APPLICATION NO. 2539 OF 2017
WITH
CIVIL APPLICATION NO. 2540 OF 2017
IN
FIRST APPEAL (ST) NO. 1181 OF 2017

Shri. Ganesh Dagadu Bandal

.. Applicant
(Ori. Respondent No.2)

IN THE MATTER BETWEEN

The New India Assurance Co. Ltd.
Through Centralized Motor TP Claims HUB

.. Appellant
(Ori. Insurer)

Versus

Shri. Ganesh Dagadu Bandal and Anr.

.. Respondents

-
- Mr. Devendranath S. Joshi, Advocate for the Applicant.
 - Mr. S.V. Chougule, Advocate for the Respondent
-

CORAM : MILIND N. JADHAV, J.

DATE : JULY 20, 2022

P.C.:

1. The applicant has preferred Civil Application No.172 of 2022 for seeking withdrawal of 50% of the decretal amount. The applicant was employed as a sales executive with a private company, when he met with the unfortunate accident on his motorcycle and was dashed from behind by a speeding container. Admittedly, the applicant suffered some disability details of which are placed on record as also the fact that the applicant was treated for some time in the hospital. The

award of the Trial Court takes into account the factor i.e. the salary that was received by the applicant at the then time and after applying the formula has arrived at the compensation amount.

2. Reasons stated in the Civil Application for seeking withdrawal in paragraph Nos.5 and 6 are cogent and deserve to be accepted especially when the applicant has suffered permanent disability due to the accident for the past 11 years and has not received any compensation whatsoever till date. Applicant has also stated in his application that he requires financial aid/funds for his livelihood.

3. Mr. Devendranath Joshi, learned counsel appearing for the appellant - Insurance Company and respondent in the Application has in his usual fairness placed the facts before the Court but has refrained from precipitating the arguments. This graceful stand on the part of Mr. Joshi is appreciated by the Court.

4. In view of the facts of the present case and the reasons mentioned in the Civil Application, it will be appropriate to direct withdrawal of a lumpsum amount of Rs.10,00,000/- (Ten Lakhs only) from the amount which has been deposited in the Trial Court in favour of the applicant.

5. Accordingly Civil Application No.172 of 2022 stands allowed. Applicant is permitted to withdraw an amount of Rs.10,00,000/- (Ten Lakhs only) from the amount which is deposited in the Trial Court by

the appellant - Insurance Company without any condition.

6. If the applicant makes the application for withdrawal before the Trial Court, the Trial Court is directed to dispose of the said application within a period of one week from the date of filing of the Application before the Trial Court and allow withdrawal of the amount to the applicant.

7. Civil Application No.172 of 2022 is disposed.

8. Civil Application No.2539 of 2017 has been filed for seeking condonation of 79 days in filing the First Appeal against the judgment and award dated 31.01.2016 passed by the Motor Accident Claims Tribunal, Thane in Motor Accident Claim Petition No.968 of 2008.

9. For the reasons mentioned in paragraph No.4 of the Civil Application, delay stands condoned. Civil Application No.2539 of 2017 stands allowed in terms of prayer clause (a).

10. Civil Application No.2539 of 2017 is disposed of.

11. By order dated 26.02.2019 passed in Civil Application No.2540 of 2017, this Court directed deposit of the entire amount as awarded by the trial court within a period of 6 weeks from the date of the order. Mr. Joshi submits that the amount has been deposited in its entirety.

12. Civil Application No.2540 of 2017 is allowed in terms of prayer clause (a) and is disposed.

13. Parties to act on an authenticated copy of this order.
14. First Appeal to be listed in due course.

[MILIND N. JADHAV, J.]

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by AJAY
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