

*Sharayu Khot.*

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

**INTERIM APPLICATION NO.20428 OF 2022**

**IN**

**FIRST APPEAL (ST.) NO.23059 OF 2022**

**Dinesh Laxminarayan Jha** **...Applicant**

**In the matter between**

**BEST Undertaking** **...Appellant**

***Versus***

**Dinesh Laxminarayan Jha** **...Respondent**

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Mr. T.J. Mendon for Applicant in IA No.20428 of 2022 and for Respondent in FA.

Mr. Hemal i/b. Navdeep Vora and Associates for the Appellant and Applicant in IA No.18855 of 2022 and IA No.18854 of 2022.

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**CORAM : R.I. CHAGLA J**

**DATE : 05 December 2022**

**ORDER :**

1. By this Interim Application, the Applicant is seeking permission to withdraw the amount deposited in the lower Court by the Appellant.

2. By order dated 4th October 2022, this Court had recorded the statement of the learned Counsel for the Appellant that the entire amount awarded by the impugned judgment and order will be deposited with the MACT, Mumbai within four weeks. By virtue of the statement, the implementation and execution of the impugned judgment and award was stayed till the next date of hearing. Pursuant to the said order dated 4th October 2022, the Appellant has deposited the entire amount with the MACT, Mumbai.

3. The Applicant seeks withdrawal of the amount.

4. The Applicant was awarded an amount of Rs. 51,07,463/- by the MACT, Mumbai inclusive of amount paid under no fault liability with interest at the rate of 7.5% per annum from the date of Application till the realization of the amount.

5. The Applicant was 51 years old at the time of accident and was a carpenter. Due to the accident, the Applicant sustained serious injuries and disability of 44% as held by MACT, Mumbai. The Applicant has stated that due to the injuries sustained in the accident, he could not carry out work as carpenter. The Applicant further

stated that substantial amounts were extended towards the medical and hospital expenses. The Applicant would further require to spend towards the future medical expenses for the rest of his life. The Applicant has further stated that he has undergone great hardship and is not in a position to spend towards the day-to-day expenses. Accordingly, the present Interim Application has been filed.

6. Having considered the averments in the Interim Application as well as taking note of the impugned judgment and order which had awarded compensation to the Applicant for the disability of 44% due to the injury suffered on account of the accident as well as the amount with interest at 7.5% from the date of Application till the realization of the entire amount, the Applicant has made out a case for withdrawal of 50% of the entire amount deposited by the Appellant with the MACT, Mumbai pursuant to the order dated 4th October 2022. Hence, the following order is passed. :-

- (i) The Applicant is permitted to withdraw 50% of the amount deposited by the Appellant before the MACT, Mumbai upon furnishing an undertaking of the

Appellant against disbursement of the amount that if the Appellant succeeds in the First Appeal, the Applicant shall return the amount with interest at such rate as determined by this Court.

- (ii) If 50% is withdrawn by the Applicant, balance amount shall be invested in a fixed deposit of a nationalised bank.
- (iii) Interim Application is accordingly, disposed of.

**[R.I. CHAGLA J.]**