

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

911 CIVIL APPLICATION NO. 8927 OF 2023
IN FIRST APPEAL NO. 1939 OF 2023

SALMANKHAN S/O NASIRKHAN PATHAN
VERSUS
THE BRANCH MANAGER H.D.F.C. ERGO GENERAL
INSURANCE COMPANY LTD AND OTHERS

...
Mr. K.N. Shermale – Advocate for Applicant
Mr. M.R. Deshmukh – Advocate for Respondent No.1
....

CORAM : SANDIPKUMAR C. MORE, J.
DATE : 21st July, 2023

PER COURT :

1. Heard rival submissions.
2. The applicant is seeking withdrawal of the entire amount of compensation, which has been deposited by the Insurance Company alongwith the interest accrued thereon.
3. The learned Counsel for the Insurance Company strongly opposed the application on the ground that, the learned Tribunal wrongly observed that, there was 25% disability nearly relying upon the evidence of the doctor

without determining the functional disability.

4. However, it appears that, the Insurance Company before the learned Tribunal did not suggest anything to the Medical Officer, who issued permanent disability certificate about such functional disability of the applicant. Therefore, considering the fact that, Insurance Company has challenged the impugned judgment and award on the ground of quantum, the applicant at this juncture is permitted to withdraw 75% amount of compensation alongwith the proportionate interest accrued thereon till date on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

5. The remaining amount be kept in F.D.R. in any nationalized Bank on yearly renewal basis till final disposal of this appeal.

6. The civil application is accordingly disposed of.

[SANDIPKUMAR C. MORE]
JUDGE