

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.9294 OF 2023
IN FAST/31695/2022**

AJITKUMAR ALIAS BALU S/O. RATILAL KATARIYA
VERSUS
NEW INDIA INSURANCE COMPANY LTD. THROUGH ITS
BRANCH MANAGER AND ORS

...
Mr. C. K. Shinde, Advocate for the Applicant.
Mr. A. S. Usmanpurkar, Advocate for Respondent No.1.
...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 11th AUGUST, 2023.

PER COURT:-

1. Heard learned Advocate appearing for the respective parties.
2. By this application, the applicant seeks permission to withdraw the compensation amount deposited by the respondent/Insurance Company in pursuance of the award passed by the Motor Accident Claims Tribunal, Beed in MACP No.16/2015.
3. The learned Advocate appearing for the applicant submits that the applicant has suffered permanent disablement on account of accident. The Tribunal has assessed the compensation based on the evidence tendered into service. He submits that the grounds of appeal as raised by the Insurance Company are without substance. He, therefore, urges to permit him withdrawal of the amount.

4. Per contra, Mr. Usmanpurkar, learned Advocate appearing for the respondent/Insurance Company submits that the evidence on record clearly established that there is no loss of earning consequential to the permanent disablement suffered by the claimant. He would submit that there are other grounds in appeal that requires consideration. He submits that, in case Court permits the withdrawal of the amount, interest of the Insurance Company needs to be protected.

5. Having considered the submissions advanced, it is apparent that the claimant had suffered amputation of leg above knee at young age of 30 years. There is ample material to show the medical expenses incurred by him. Although, arguable grounds are made out in appeal that itself will not be hurdle in claim for withdrawal of amount. Considering the nature of disablement and reasoning given by the Tribunal, the case is made out to permit partial withdrawal of the amount. Hence, the following order:-

ORDER

- a. Civil Application is partly allowed.
- b. The applicant is permitted to withdraw 60% of the compensation amount deposited by the Insurance Company subject to furnishing of usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.
- c. Balance amount alongwith accrued interest be kept in Fixed Deposit in any Nationalized Bank initially for a period of one year with renewal clause.

d. Civil Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/August-2023