

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****INTERIM APPLICATION NO.13874 OF 2023****IN****FIRST APPEAL (ST) NO.7424 OF 2023****Prashant Bhimrao Patil****..... Applicant****IN THE MATTER BETWEEN****The New India Assurance Co. Ltd.****..... Appellant****VERSUS****Prashant Bhimrao Patil & Anr.****..... Respondents**

Mr.K.U.Patil for the Applicant/Respondent No.1 in F.A.

Ms.Jaya Shukla i/b. Ms.Jyoti Pandey for the Applicant in IA/2514/2023 and Appellant.

Ms.Priya Dalvi i/b. Mr.P.D.Dalvi for the Respondent No.2.

CORAM: ABHAY AHUJA, J.**DATE : 1st AUGUST, 2023****P.C:-**

This is an application seeking the withdrawal of the amount deposited by the insurance company.

2. Ms.Dalvi, learned counsel for the interim applicant who is the injured original claimant before the Tribunal submits that the applicant has suffered 90% disability on account of amputation of the entire right leg above the knee. Learned counsel would submit that for the

treatment, the injured had to borrow money and therefore this application has been preferred for withdrawal of the amount deposited by the insurance company.

3. Ms.Shukla, learned counsel for the insurance company would submit that this is a case of contributory negligence as the injured was going from the wrong side as is recorded by the tribunal and submits that the entire amount cannot be given.

4. Having heard learned counsel and having perused the application, this Court is of the view that interests of justice would be served if 30% of the amount deposited is allowed to be withdrawn by the applicant subject to an undertaking that in the event, the appellant succeeds in the appeal, the applicant will bring back the said amount along with interest within a period of four weeks.

5. Interim application is accordingly allowed in the above terms.

[ABHAY AHUJA, J.]