

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 16378 of 2023
IN
FIRST APPEAL NO.101 OF 2022**

Ramchandra ShikhareApplicant

In the matter of

The New India Assurance Co.Ltd.Appellant

versus

Ramchandra Shikhare and ors.Respondents

Mr. S. B. Deore along with Mr. J. Choudhari and Ms. Suchita Pawar,
Advocates for applicant.

Ms. Deepika Prabhala i/b. Res Juris, Advocate for the
Appellant/Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 28th NOVEMBER, 2023.

P.C. :

1. Learned counsel for applicant seeks leave to amend the application. Leave granted. Necessary amendment be carried out within one week from today.

2. This is an application for withdrawal of the amount.

3. It is the contention of learned counsel for the applicant that applicant has suffered permanent disability in the accident and he is unable to work. Applicant is 68 year old and he has no source of income. Hence, requested for withdrawal of the amount.

4. Learned counsel for appellant-Insurance Company strongly

objected to allow the application on the ground that applicant was gratuitous passenger in the vehicle but this fact is not considered by the Tribunal. Hence, requested to reject the application.

5. I have heard both learned counsel, perused the judgment and order passed by the Trial Court. The applicant has suffered permanent disability in the said accident. The issue raised by learned counsel for appellant-Insurance Company can be considered at the time of final hearing of the appeal. Applicant is 68 year old, he has no source of income. Considering these facts, I pass the following order :

O R D E R

1. The application is allowed.
2. The applicant is permitted to withdraw 25% amount along with accrued interest therein, out of the deposited amount on furnishing usual undertaking.

The application is disposed of.

(SHIVKUMAR DIGE, J.)