

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

**INTERIM APPLICATION NO. 83 OF 2023
IN
FIRST APPEAL NO. 710 OF 2022**

Nitin Sitaram Shinde

....Applicant

In the matter between

HDFC ERGO General Insurance
Co. Ltd.

....Appellant

Versus

Nitin Sitaram Shinde & Anr.

....Respondents

Ms. Sweta Shah i/b A.P. Kulkarni, for the Appellant/Applicant.
Mr. Sumit Kothari for the Respondent.

CORAM : S. G. DIGE, J.

DATE : 31st JANUARY, 2023.

P.C. :

1. Heard learned counsel for Applicant and learned counsel for Respondent.
2. The learned counsel for the Applicant submit that Applicant

had sustained 80% disability in the accident. The Respondent has preferred the appeal against the order passed by the Tribunal and has deposited the compensation amount along with accrued interest thereon. Due to 80% disability Applicant is unable to do any work. He is facing starvation. He needs the amount for his daily expenses and medical treatment. Hence, requested to allow the Application.

3. The learned counsel for Respondent strongly objected to allow the Application. On the ground that there was contributing negligence of the Applicant in the said accident. The disability certificate given by the doctor is on higher side, the Tribunal has not considered, the evidence led by the Respondent and excessive compensation is awarded. The said facts are challenged before this Court by way of Appeal.

4. Hence requested to dismissed the Application.

5. I have heard both learned counsel. Admittedly Applicant is injured in the accident. There is dispute about the disability of Applicant, but due to said accident Applicant is unable to do any work. He is facing starvation. His family depend's on him.

6. In view of above, I pass following order.

ORDER

- i. Application is allowed.
- ii. The Applicant is permitted to withdraw 30% amount along with accrued interest thereon out of deposited amount on furnishing undertaking.
- iii. Application is disposed of.
- iv. Call for Record & Proceedings.

(S. G. DIGE, J.)