

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

**INTERIM APPLICATION NO.3523 OF 2023
IN
FIRST APPEAL NO.190 OF 2023**

Arif Akbar Pathan And Anr. ... Applicants
V/s.
ICICI Lombard General Insurance Co.Ltd. ... Respondent

Mr. Amol Gatne i/by Swati Mehta for the Applicants.
Mrs. Varsha Chavan for the Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATED : 10th APRIL, 2023

P.C.:

1. Heard learned counsel for the Applicants and learned counsel for the Respondent-Insurance Company.
2. The learned counsel for the Applicant submits that the Applicant has suffered 85% disability in the said accident his right leg is amputated. After the accident, the Applicant is unable to do any work. He has no source of income. He requires the amount for daily expenses and medical treatment. Hence, requested to allow the application.
3. The learned counsel for the Respondent-Insurance Company strongly objected to allow the application on the ground

that the exorbitant an excessive compensation is awarded under the head of future prospects. The accident was occurred due to sole negligence of the claimant, but these facts are not considered by the Tribunal while awarding compensation. Hence, requested to dismiss the application.

4. I have heard both the learned counsel.

5. Admittedly, the Applicant has suffered 85% disability in the accident his right leg is amputated. He has no source of income. He needs the amount for daily expenses and medical treatment. The issue raised by the Respondent can be considered at the time of final hearing of the Appeal. Hence, I pass following order :-

ORDER

- (i) Application is allowed.
- (ii) The Applicants are permitted to withdraw 35% amount along with accrued interest thereon out of deposited amount on furnishing undertaking.
- (iii) Application is disposed of.

(SHIVKUMAR DIGE, J.)