

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

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**INTERIM APPLICATION NO. 49 OF 2023
IN
FIRST APPEAL NO. 728 OF 2022**

Mr. Muzaffar Mehfooz KhanApplicant

In the matter between

Reliance General Insurance Co. Ltd.Appellant.

Versus

Mr. Muzaffar Mehfooz Khan & Anr.Respondents

Mr. Pramod Purav i/b Niketan Nakhawa, for the Applicant /
Respondent No.1.

Ms. Megha Keluskar i/b Shalini Shankar, for the Appellant.

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 86% 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 has suffered injuries to his leg in the said accident. 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. Hence requested to dismissed the Application.

4. I have heard both the learned counsel. Admittedly Applicant is injured in the accident. There is dispute about the disability of Applicant, but due to said accident there is shaft fracture to his leg of right leg of the Applicant, he is unable to do any work. He is facing starvation. His family depend's on him. He has two children

and his old age mother, who are dependent on him. He is the only earning member of his family.

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

ORDER

- i. Application is allowed.
- ii. The Applicant is permitted to withdraw 50% 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.)