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

FIRST APPEAL NO. 1201 OF 2022

Reliance General Insurance Co. Ltd. .. Appellant
Vs.
Pradip Shrikrishna Gupta & Anr. .. Respondents

**WITH
INTERIM APPLICATION NO. 20517 OF 2022
IN
FIRST APPEAL NO. 1201 OF 2022**

Pradip Shrikrishna Gupta .. Applicant
Vs.
Reliance General Insurance Co. Ltd. .. Respondent

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Ms. Shalini Shankar for the applicant in FA No.1201 of 2022 and
for the respondent in IA No. 20517 of 2022

Mr. T.J. Mendon for respondent no.1 in FA No. 1201 of 2022 and
for the applicant in IA No. 20517 of 2022

Mr. C.M. Lokesh for the respondent no.2 in FA No. 1201 of 2022

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 11th JULY, 2023

P.C.

1. Heard.

2. Admit.

3. Learned Counsel for the appellant undertakes to file the compilation comprising evidence and other relevant documents within four weeks.
4. List the appeal on **24th August, 2023**.

INTERIM APPLICATION NO. 20517 OF 2022

1. Heard learned Counsel for the applicant.
2. This is an application seeking withdrawal of the amount deposited by the insurer in Claim Application No. (WCA) 340/C-112 of 2017 before the Commissioner for Workmen's Compensation at Mumbai.
3. Heard Mr. Mendon, learned Counsel as well as Ms. Shalini Shankar for the insurer.
4. At the outset, Mr. Mendon submits that there is no substantial question of law involved in the appeal and, therefore, it has to be dismissed in limine. Be that as it may. The said point can be decided at the time of final disposal of the appeal.

5. Mr. Mendon submits that the applicant was 21 years of age at the time of accident, when he was working as a cleaner on the goods vehicle, which belongs to his father. He submitted that he had sustained permanent partial disability, which has ultimately resulted into 100% loss of his earning capacity. The applicant has to lead crippled life for rest of his life. Since he has been suffering great deal of hardship and has no independent source of income, the applicant has prayed for withdrawal of the amount deposited by the insurer in the trial Court.

6. Ms. Shalini Shankar, learned Counsel for the insurer while opposing the contention of the learned Counsel for the applicant, submits that the prayer for withdrawal of the entire amount may not be granted at this stage, which can be decided at the time of final disposal of the appeal.

7. Without going into the merits of the case, having considered the nature of the injuries suffered by the applicant by which he has been incapacitated, resulting into 100% loss of his earning capacity, interest of justice requires that the applicant must be permitted to

withdraw the entire amount *albeit* by giving an undertaking that in case the insurer succeeds in the appeal, the applicant shall refund the amount with interest, as may be determined.

8. In view of the above, the application is allowed.

9. The applicant is permitted to withdraw the entire amount of compensation deposited by the insurer with accrued interest. Before withdrawing the amount, the applicant shall given an undertaking as above.

10. The application is disposed of.

(PRITHVIRAJ K. CHAVAN, J.)