

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FIRST APPEAL NO.645 OF 2022

(MAGMA HDI General Insurance Co. Ltd., Nagpur Vs. Vilas s/o Suryabhan Gabhane and anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.P. Bhuihar, Advocate for the appellant.
Shri K.P. Mirache, Advocate for respondent No.1.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JANUARY 02, 2023.

Learned Counsel for the appellant seeking time to supply correct and detailed address of respondent No.2.

2. On his application, stand over to 24/01/2023.

CIVIL APPLICATION NO.2920 OF 2022

Heard.

2. Present application is preferred by respondent No.1 – original claimant for seeking permission to withdraw the amount of compensation deposited by the appellant before this Court. While preferring an appeal, the appellant has deposited 50% of decretal amount as under :

Rs.11,47,457/- vide CCD No.29873,
dated 15/09/2022

Rs.25,000/-, vide CCD No.29667,
dated 08/07/2022

Thus, total amount of Rs.11,72,457/- is lying
in this Court.

3. It is contended that respondent No.1 has suffered 80% permanent disability as his right leg is amputated above the knee and is unable to earn his livelihood. He requires the amount for any standing business for his livelihood as well as he has obtained a loan for his treatment. It is further contended that at present respondent No.1 is depending upon the other family members due to his disability.

4. Learned Counsel for the appellant strongly objected the application on the ground that the Insurance Company has taken the statutory defences and the Insurance Company has every chance of success in the present appeal.

5. If the entire amount is withdrawn by respondent No.1, it would be difficult for the Insurance Company to recover the same.

6. Heard both the sides. Perused the record.

7. Considering the reasons mentioned in the application, 50% amount from the deposited amount can be disbursed to respondent No.1.

8. In the above circumstances, respondent No.1 is permitted to withdraw 50% amount of Rs.11,72,457/- on furnishing usual undertaking.

9. The application is allowed and disposed of accordingly.

CIVIL APPLICATION NO.1661 OF 2022

1. In view of order dated 08/09/2022, the appellant has complied the conditional order on

which the stay to effect and operation of impugned judgment, was granted.

2. In view of the compliance of the earlier order, the execution and operation of impugned judgment is stayed, till final disposal of the appeal.

3. The application is allowed and disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*