



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 5733 OF 2024

IN FAST/36549/2023

SHAIKH NAMIM @ NAJIM S/O SHAIKH JABBAR

VERSUS

ICIC LOMBARD GENERAL INSURANCE CO LTD THE BRANCH MANAGER
AND ORS

Mr.R.J. Nirmal, Advocate for the applicant.

Mr.M.R. Deshmukh, Advocate for the respondents.

CORAM : KISHORE C. SANT, J.

DATED : 25.06.2024

PC :-

01. Leave to correct the name of the respondent.

02. This application is filed for withdrawal of the amount. The application is opposed by the insurance company. The learned Advocate for the insurance company submits that the learned Tribunal wrongly awarded amount of Rs.7,73,000/- towards medical bill. These bills were not proved by sufficient evidence. He further submits that there is delay of 7 days in lodging the FIR. This creates doubt about case of the claimant. He mainly argued that the learned Tribunal has granted amount of Rs.15,93,000/- towards artificial leg. There is no proof that the applicant has put an artificial leg. He submits that in any case withdrawal cannot be allowed for more than 50% amount.

02. The learned Advocate for the applicant points that an amount of

Rs.15,93,000/- is granted towards artificial leg with condition in clause No.4 of the operative order, wherein the learned Tribunal has directed to pay Rs.15,93,000/- towards artificial leg, to be kept in any nationalized bank in the name of the claimant for two years. The said amount is to be withdrawn by remitting the amount directly in the name of hospital or supplier of the artificial leg on the application of the claimant. He thus submits that this amount of Rs.15,93,000/- is not to be directly paid to him. So far as medical evidence is concerned, he submits that there is no cross-examination on this aspect by the insurance company.

03. Considering the above submissions, this Court finds that interest of justice can be met by allowing the applicant to withdraw Rs.25,00,000/- with interest for the present. The applicant is at liberty to produce sufficient documentary evidence to this Court and thereafter to apply for withdrawal of amount of Rs.15,93,000/- towards artificial leg. Hence, following order :-

ORDER

(i) The applicant is allowed to withdraw Rs.25,00,000/- (Rupees Twenty Five Lakhs) along with proportionate interest accrued on the said amount, on an undertaking that in-case the appeal is allowed, he shall re-deposit the amount with interest within 12 weeks from the date of such order.

(ii) The applicant is at liberty to apply for payment of cost of artificial leg on submitting sufficient documentary proof.

(iii) The civil application is accordingly allowed and is disposed off.

[KISHORE C. SANT, J.]