



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.1192 OF 2024

IN FAST/27668/2023

WITH CIVIL APPLICATION NO.11755 OF 2023 IN
FAST/27668/2023

WITH CIVIL APPLICATION NO.11756 OF 2023 IN
FAST/27668/2023

SIDDHARTH MAHADEV VANDEKAR

VERSUS

NEW INDIA INSURANCE COMPANY THROUGH GENERAL
MANAGER AND OTHERS

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Advocate for Applicant : Mr. Shemale K. N.

Advocate for Respondent No.1 : Mr. Amol G. Vasmatkar.

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CORAM : S. G. MEHARE, J.

DATE : 09.02.2024

PER COURT :-

1. Not on board. Taken on board.
2. Heard the learned counsels for the respective parties.
3. The Tribunal held permanent disability caused to the applicant. However, the insurer opposed that view contending that the Tribunal ought to have considered the functional disability and not the disability in totality. Therefore, the quantum is incorrectly determined. An innovative defence of the violation of breach of the policy that the offending vehicle was carrying the beef has been placed before the Court.

4. Learned counsel for the applicant states that for carrying beef in the vehicle, the separate crime is registered against the applicant. Let the counsel for the applicant satisfy such violation of the breach of the policy of the condition. However, it appears that the applicant suffered the injury that caused him permanently disabled. He was the Mechanical Engineer. As per the statement of the advocate Mr. Shermale for the applicant, he has suffered the permanent disablement to his right leg and hand. It is also the settled law that the compensation in permanent disability should always be calculated on the functional disability. So, considering the disputed facts, the following order is passed :

ORDER

- (i) The civil application for withdrawal of amount is partly allowed.
- (ii) The applicant is allowed to withdraw Rs.20,00,000/- out of the amount deposited with Court with accrued interest thereof on the condition that he would deposit money with the Court, if the judgment and award is reversed.
- (iii) Stand over to 23.04.2024.

(S. G. MEHARE, J.)

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vmk/-