

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

**INTERIM APPLICATION NO. 3614 OF 2023
IN
FIRST APPEAL NO. 1209 OF 2022**

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Vikram Bharat WaghmareApplicant

IN THE MATTER BETWEEN

The Oriental Insurance Co. Ltd.Appellant

Versus

Vikram Bharat Waghmare & Anr.Respondents

Mr. Rahul B. Vijaymane, Advocate for the Applicant/Respondents.

Mr. D. S. Joshi, Advocate for the Appellant.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th APRIL, 2024.

P.C. :

1. By this application, Applicant is seeking withdrawal of amount.

2. It is contention of learned counsel for the Applicant that due to accidental injuries the Applicant has suffered 61% permanent physical disability. Applicant needs the amount for daily expenses.

After the accident, the Applicant is unable to do any work. Hence, requested to allow the Application.

3. Learned counsel for the Appellant/Insurance Company strongly objected to allow the Application on the ground that, the offence registered against the driver of offending vehicle. By Magistrate's order under Section 156 (3) of Code of Criminal Procedure. Learned counsel further submitted that the said order was passed on same date when application was filed. Earlier application was filed under Section 156 (3) under the same Section but it was withdrawn and it was filed against the other vehicle. Applicant is practicing an Advocate and he has continued his job after the accident but the Tribunal has not considered this fact. Hence, requested to reject the Application.

4. I have heard both learned counsel.

5. It appears from record that Applicant has suffered 61% permanent physical disability. He needs the amount for his daily expenses. The issue raised by the Appellant/Insurance Company can be considered at the time of final hearing of the appeal.

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

ORDER

- i. Application is allowed.
- ii. Applicant is permitted to withdraw 20% amount along with accrued interest thereon, out of the deposited amount, on furnishing undertaking.

The Application stands disposed of.

(SHIVKUMAR DIGE, J.)