**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE SIDE JURISDICTION**

**INTERIM APPLICATION NO. 2187 OF 2024**
**IN**
**FIRST APPEAL (ST) NO. 1615 OF 2024**

Mahesh Nagesh Ghodke ….Applicant

**IN THE MATTER BETWEEN**

Bajaj Allianz General Insurance Co. Ltd. ….Appellant
**Versus**

Mahesh Nagesh Ghodke & Anr. ….Respondents

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Mr. Sarthak S. Diwan, Advocate for the Applicant.
Mr. Nikhil Mehta i/b KMC Legal Venture, Advocate for the Respondents.

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**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 6th MARCH, 2024.**

**P.C. :**

1. Heard learned counsel for the Applicant and learned counsel for the Respondents.

2. It is contention of learned counsel for the Applicant that due to accidental injuries. Applicant has loss his limb and his left hand is amputated. There is 100% permanent physical disability. Applicant is unable to do any work. Applicant to needs the prosthetic arm but he does not have to money to buy it. Applicant has no source of income. Hence, Requested to allow the Application.

3. Learned counsel for the Respondent/Insurance Company strongly objected to allow the Application, on the ground that at the time of accident Applicant/driver of offending vehicle was not holding effective and valid driving licence. There was breach of terms and conditions of Insurance Policy but this fact is not considered by the Tribunal. The Tribunal should have exonerated the insurance company from paying the compensation. Hence, requested to reject the Application.

4. I have heard both learned counsel. Applicant has suffered 100% permanent physical disability. Applicant has lost his limb and his left hand is amputated. He has no source of income. He needs the amount for his daily expenses. The issue raised by the Respondent/Insurance Company can be considered at the time of final hearing of the Appeal hence, I pass following order.

**ORDER**

i. Application is allowed.

ii. Applicant is permitted to withdraw 60% amount along with accrued interest out of the deposited amount, on furnishing undertaking.

Application is disposed of.

**(SHIVKUMAR DIGE, J.)**