

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 7702 OF 2024

IN

FIRST APPEAL NO. 108 OF 2024

Sandeep Jayaram Khot

... Applicant

In the matter between

Magma HDI General Insurance Company Ltd.

... Appellant

Versus

Sandeep Jayaram Khot and Anr.

... Respondents

.....

Mr. Jitendra Gor, Advocate for Applicant.

Mr. Pandit Kasar, Advocate for the Appellant.

CORAM : SHIVKUMAR DIGE, J.

DATE : 18th APRIL, 2024**P.C. :**

1. By this application, the applicant is seeking withdrawal of amount.
2. Learned counsel for the applicant submitted that due to accidental injuries applicant has suffered 80% permanent physical disability, his left hand is amputated. The applicant needs the amount for medical expenses and daily expenses, hence requested to allow the application.
3. Learned counsel for the Appellant-Insurance Company strongly objected to allow the application on the ground that applicant was riding

on motorcycle without helmet and he was traveling with other two pillion riders. The Tribunal has considered 30% contributory negligence of the applicant, however it should be 50%. Learned counsel further submitted that the Tribunal has awarded compensation on higher side under various heads, hence requested to reject the application.

4. I have heard both the learned counsel. The applicant has suffered 80% permanent physical disability. Due to accidental injuries his left hand is amputated. Applicant needs the amount for daily expenses and medical expenses. The issue raised by the learned counsel for the respondent can be considered at the time of final hearing of the appeal. Hence, Considering this fact, I pass following order.

ORDER

- i. The application is allowed.
- ii. The applicant is permitted to withdraw the 30% amount out of deposited amount along with accrued interest thereon on furnishing usual undertaking.

5. The Interim application is disposed of.

(SHIVKUMAR DIGE, J.)