

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

**INTERIM APPLICATION NO. 370 OF 2024
IN
FIRST APPEAL (ST) NO. 18218 OF 2018**

Mr. Salman Aslam Shaikh

... Applicant

IN THE MATTER BETWEEN

Cholamandalam M.S. General Insurance
Co.Ltd.Through Its Authorized Representative
Mr. Hemant Gaonka

... Appellant

Vs.

Mr. Salman Aslam Shaikh And Anr.

... Respondents (Org
Applicant)

Adv. Rajesh Kanojia i/by Res Juris, for the Appellant.

Ms. Yashika S. Jain h/f Mrs. Kalpana R. Trivedi, for the Respondent No. 1.

CORAM : KISHORE C. SANT, J.

DATE : 2nd May, 2024

P.C.:-

1. Heard the parties. This Application is filed for allowing the Applicant/Claimant to withdraw the amount of compensation as awarded by the learned Commissioner for Employees Compensation, Judge Third Labour Court At Thane, dated 17.02.2018. The learned Commissioner partly allowed the Claim and directed the Appellant/Respondent Company to pay an amount of Rs. 6,04,830/- @ 12% interest from the date of accident till realization of the amount. The Present Appellant is directed to

pay the amount jointly and severally along with present Respondent No. 2. As per the mandatory provision the Respondent has deposited the amount along with interest of Rs. 7,85,384, on 20.06.2018 with the learned Commissioner. The said amount is lying un-utilized.

2. It is stated that in the Application the Applicant is suffering from medical problems which he has suffered because of the accident. It is also submitted that though there is an order by the Commissioner still the Applicant is deprived of the amount.

3. The learned Advocate for the Respondent/Insurance Company opposes the Application submitting that, if the amount is withdrawn it would be difficult to recover the said amount from the Applicant.

4. Considering the fact that the learned Commissioner has on considering the evidence, allowed the Application, it would not be proper to deprive the Applicant of the amount care can be taken of the interest of the Insurance Company by putting the Applicant to some conditions. Hence the following order.

ORDER

- a) The Application is partly allowed.
- b) The Learned Commissioner for Employees Compensation, Judge Third Labour Court At Thane, to allow the Applicant to withdraw the 50% of the amount along with interest, if any, accrued thereupon on

furnishing undertaking that in case the Appeal is allowed, the Applicant shall re-deposit the amount which is withdrawn along with interest within 12 weeks from the date of such Judgment.

c) Remaining 25% amount shall be allowed to be withdrawn on furnishing solvent security for the said amount to the satisfaction of the learned Commissioner.

d) Remaining 25% of the amount be invested in a Fixed Deposit in the National Bank be renewed from time to time till decision of the Appeal.

e) Interim Application stands disposed of.

(KISHORE C. SANT, J.)