



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

946 CIVIL APPLICATION NO. 1196 OF 2015
IN FA/3589/2011

DILIP GOVIND KALE

VERSUS

THE NEW INDIA ASSURANCE COMPANY LTD AND ANOTHER

...

Mr. T. G. Gaikwad, Advocate for Applicant

Mr. Usmanpurkar Aniruddha, Advocate for Respondent No.1-
Absent

CORAM : Y. G. KHOBRAGADE, J.

Dated : 28th February, 2025

PER COURT :-

1. Heard Mr. T. G. Gaikwad, the learned counsel appearing for the applicant/claimant in MACP No.133 of 2007.
2. On 28.01.2015 copy of Civil Application No. 1196 of 2015 was served upon the non applicant/Insurance Company/ appellant in first appeal, however, till date, no reply has been filed. So also, none appeared on behalf of the Appellant Insurance company.
3. By the present application, the applicant/claimant prayed for permission to withdraw the entire amount of compensation deposited by the non applicant before this Court in First Appeal No. 3589 of 2011.

4. On 25.11.2011, this Court (Coram: A.V. Potdar, J.) passed the following order in Civil Application No.7234/2011:

“1. By this application, applicant has prayed to condone delay of 165 days in preferring the appeal.

2. Heard.

3. For the grounds stated in the application which are self-explanatory, application is allowed in terms of prayer clauses ‘A’ and ‘B’.

4. Registry to register the accompanied first appeal.”

5. Needless to say that on 10.07.2007, the learned Motor Accident Claims Tribunal, Ambajogai Dist. Beed passed judgment and order in MACP No.133 of 2007 holding that the present applicant suffered 100% disability though the Medical Officer issued disability certificate of 30% and granted compensation of Rs. 4,47,000/- with interest @ 7.5% per annum. As per order dated 25.11.2011, the present applicant has been permitted to withdraw the amount of Rs.1,50,000/- on furnishing undertaking and surety to the satisfaction of this Court.

6. Office note dated 06.04.2010 shows that non Applicant No.1 Insurance company has deposited cheque No.053916 dated 25.03.2010 for an Rs.2,91,358/- . Thereafter, as per order dated 25.11.2011, an amount of Rs.1,50,000/- was paid to the

applicant claimant. Therefore, it appears that as on today, only 1,41,358/- is remained with this Court.

7. Though 14 years lapsed but the appeal is not ripped for final hearing. As such, the applicant/claimant has shown exigencies that due to sustaining accidental injuries, he is unable to perform work and some amount is required for his medical treatment. Therefore, considering such exigencies, the applicant is permitted to withdraw an amount of Rs.50,000/- with interest accrued thereon.

8. The Civil Application is accordingly disposed off.

(Y. G. KHOBRAGADE, J.)

JPChavan