



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

967 CIVIL APPLICATION NO. 6460 OF 2025
IN FAST/7234/2025

NANDKUMAR SHAMRAO KALE

VERSUS

NEW INDIA ASSURANCE COMPANY LTD THROUGH ITS BRANCH
MANAGER AND ORS

...

Mr. Shubham S. Pawar h/f. Mr. Rahul R. Karpe, Advocate for Applicant
Mr. M. R. Deshmukh, Advocate for Respondent No.1

...

WITH

CIVIL APPLICATION NO. 2720 OF 2025
IN FAST/7234/2025

THE NEW INDIA ASSURANCE CO LTD

VERSUS

NANDKUMAR SHAMRAO KALE AND OTHERS

WITH

CIVIL APPLICATION NO. 2721 OF 2025
IN FAST/7234/2025

THE NEW INDIA ASSURANCE CO LTD

VERSUS

NANDKUMAR SHAMRAO KALE AND OTHERS

...

CORAM : AJIT B. KADETHANKAR, J.

DATE : 19th SEPTEMBER 2025

PER COURT :-

CIVIL APPLICATION NO. 6460 OF 2025

1. This Civil Application is filed for withdrawal of the amount deposited vide the impugned judgment and award dated 22.10.2024,

passed by the learned Member, Motor Accident Claims Tribunal, Shrirampur, in Motor Accident Claim Petition No.171 of 2020.

2. Mr. Pawar holding for Mr. Karpe, learned counsel for the applicant submits that the assessment of the applicant's entitlement to the award is made by the learned Tribunal by applying judicious mind and after assessing the evidence on record. He would further submit that this is a case of amputation (permanent disability) and in this case, the applicant is continued in the service by this employer, which ought not to militate against his right to legitimate compensation. With this, he prays for permission to allow the application.

3. Per contra, Mr. Deshmukh, learned counsel for the Insurance Company submits that the learned Tribunal has not appreciated the evidence on record appropriately which has resulted into incorrect finding of negligence for causing the accident. Mr. Deshmukh would submit that despite having sustained the permanent disability, it has come on record, there is no monetary loss to the claimant/applicant as he is continued by his employer in the service with same salary. With this, Mr. Deshmukh submits that there could not be any entitlement for the claimant on the point of loss of earning capacity.

4. Upon having heard the parties at length, I am of the opinion that the award stands in favour of the applicant. The entitlement of the

applicant to the awarded amount is adjudicated by the learned Tribunal after assessing the evidence on record and in light of the facts of the case. It is true that there may be a debatable issue whether the amount awarded under “loss of earning capacity” ought to have been calculated more strictly, but for now keeping that issue open for debate, I pass the following order :-

ORDER

- a. Civil Application is partly allowed.
- b. Applicant is permitted to withdraw 50% of the deposited amount on furnishing usual undertaking and 25 % on furnishing solvent surety/security to the satisfaction of the learned Registrar (Judicial) of this Court.
- c. With this, Civil Application is disposed of in above terms.

CIVIL APPLICATION NO. 2721 OF 2025

1. In view of the fact that, the applicant has deposited the entire payable award amount in this Court and the claimants are also permitted to withdraw a substantial portion out of the said amount, stay granted earlier is made absolute in terms of prayer clause “B”.
2. Civil Application is allowed and disposed of accordingly.

CIVIL APPLICATION NO. 2720 OF 2025

1. For the reasons stated in the application, Civil Application stands allowed.
2. Delay of 08 days, caused in filing the First Appeal is hereby condoned.
3. Civil Application disposed of.
4. Registry to register the appeal, subject to removal of office objections, if any, within two weeks from today.

FIRST APPEAL STAMP NO.7234 OF 2025

1. After registration of the First Appeal, issue notice to the respondents. Mr. Shubham S. Pawar holding for Mr. Rahul R. Karpe, learned counsel waives service of notice for respondent no.1.
2. The matter be listed after service of notice is complete. In the meantime, appellant shall take recourse to the provisions enumerated in Chapter II of the Bombay High Court Appellate Side Rules, corresponding to the stage and requirement of matter.

[AJIT B. KADETHANKAR, J.]