



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 5452 OF 2025
IN FA/1289/2024

Prasad Ashruba Wale

....Applicant

VERSUS

The New India Auurance Co Ltd Through Its Branch Manager And Ors
.....Respondent

.....
Advocate for Applicant : Mr. Dargad Swapnil Sunilkumar
Advocate for respondent : Mr. Pratap P. Mandlik.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 8th MAY, 2025.

P.C. :-

1. The applicant/original claimant is seeking permission to withdraw the amount deposited by the respondent insurance company in pursuance to award passed by Motor Accidents Claim Tribunal. The applicant was injured in accident. As per the injury certificate he suffered 40 % permanent disability. The medical expenses of Rs. 4,19,174/- are proved on the record of the Court. The Tribunal passed award of Rs. 19,94,400/- alongwith interest @ 6 % .a.

3. The insurer of offending vehicle filed present appeal assailing the award on the ground of negligence of claimant and quantum.

4. Since the claimant was pillion rider on motor cycle the question of contributory negligence does not arise. The issue of quantum of compensation may require consideration at the time of final hearing of appeal, however, entitlement of the claimant to receive compensation cannot be disputed.

5. In that view of the matter, claimant is certainly entitled for

partial withdrawal of the amount. In the result, the following order :-

ORDER

[I] The application is partly allowed. The applicant/claimant is permitted to withdraw 60 % of the amount as deposited by the Insurance company alongwith interest accrued thereon; subject to furnishing an undertaking to the satisfaction of Registrar (Judicial) of this court, that in case any adverse order is passed, he shall redeposit the amount. Such undertaking be filed within eight weeks from today.

[ii] Rest of the amount be deposited in Fixed Deposit, with renewal clause, till disposal of appeal.

[iii] Civil application is disposed of.

ON CIVIL APPLICATION FOR STAY/ CA 5636 OF 2024.

Mr. Mandlik, learned advocate for applicant submits that the entire amount as per the award passed by Tribunal has been deposited by the insurance company. The statement is supported by office endorsement. In that view of the matter, civil application is allowed and disposed of.

IN FIRST APPEAL NO. 1289 OF 2024.

Mr. Mandlik undertakes to take steps against unserved respondent No.2 within six weeks from today.

[S.G. CHAPALGAONKAR, J.]

grt/-