



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

953 CIVIL APPLICATION NO. 10601 OF 2025
IN FAST/16303/2024

IRFAN HAMEEDKHAN PATHAN
VERSUS
SATISH BABURAO BAND AND ANOTHER

...

Mr. R. S. Shinde, Advocate for Applicant
Mr. Narayan Chavan h/f. Mr. D. S. Bagul, Advocate for Respondent No.2

WITH
CIVIL APPLICATION NO. 6916 OF 2024
IN FAST/16303/2024

MAHARASHTRA STATE ROAD TRANSPORT CORPORATION THROUGH
DIVISIONAL CONTROLLER LATUR

VERSUS
IRFAN HAMEEDKHAN PATHAN AND ANR

WITH
CIVIL APPLICATION NO. 6917 OF 2024
IN FAST/16303/2024

MAHARASHTRA STATE ROAD TRANSPORT CORPORATION THROUGH
DIVISIONAL CONTROLLER LATUR

VERSUS
IRFAN HAMEEDKHAN PATHAN AND ANR

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CORAM : AJIT B. KADETHANKAR, J.

DATE : 26.09.2025

PER COURT :-

CIVIL APPLICATION NO. 10601 OF 2025 IN FAST/16303/2024 (Withdrawal)

1. Feeling aggrieved and dissatisfied with the judgment and award dated 03.11.2023, passed by the learned Member Motor Accidents Claims Tribunal, Latur, in M.A.C.P. No.172 of 2017, appellant has preferred this appeal.

2. This was a claim for injury. The learned Tribunal, in respect of loss of earning capacity and loss of income due to 30% permanent disability, granted compensation. As the appellant has deposited the entire payable award amount in this Court, the claimant has moved this application seeking withdrawal of the deposited amount.

3. Mr. Shinde, learned counsel for the applicant, submits that although the claimant is dissatisfied with the quantum of compensation and has not filed any appeal, he contends that the claimant is at least entitled to whatever portion of the awarded amount is just. Mr. Shinde, therefore, prays for withdrawal of the entire amount deposited by the appellant.

4. Mr. Chavan, learned counsel, vehemently opposes the application, arguing that the learned Tribunal erred in relying upon a medical certificate regarding the age of the claimant. Mr. Chavan contends that the casual approach of the Tribunal in recording the age led to an exaggerated award. He points out that, since the accident occurred in 2016–17, it was incumbent on the Tribunal to require the claimant to place some concrete or cogent evidence

of his exact date of birth. The failure to take such precaution, he submits, results in granting excess compensation. Mr. Chavan also challenges the Tribunal's finding on quantum, especially the notional monthly income of Rs. 6,000 fixed for the claimant.

5. Having heard both the parties at length, I find that today the award is in favour of the claimant. The entitlement of the claimant has been assessed by the learned Tribunal by examining the evidence on record and by going through the facts of the case. The learned Tribunal has even appreciated the defence of the appellant/MSRTC. No doubt there is something to observe against the impugned judgment and award as to the manner in which the learned Tribunal has considered the age of claimant. It appears that the Civil Application can be allowed partly.

6. Hence the following order :-

ORDER

- a. Civil Application is partly allowed.
- b. Applicant is permitted to withdraw Rs.10 Lakh(Rupees Ten Lakh) on furnishing usual undertaking and further Rs. 3 Lakh (Rupees Three Lakh) on furnishing solvent security/surety to the satisfaction of the learned Registrar (Judicial) of this Court.
- c. The remaining amount shall be deposited in a fixed deposit in a nationalized bank.
- d. Civil Application stands disposed of.

CIVIL APPLICATION NO. 6916 OF 2024 IN FAST/16303/2024 (Delay)

1. Mr. Chavan, learned counsel for the applicant, submits there is a delay of 97 days in filing the present appeal. He contends that the delay is due to administrative exigencies, not negligence or lethargy. He further submits that the interest of the claimants is already protected, as MSRTC has deposited the entire awarded amount in this Court with interest. He argues that the appeal has strong merits and urges that directions may be given to the Tribunal to apply the proper multiplier and to require the claimant to place on record proof of correct age. He, therefore, prays that the delay be condoned and the appeal be heard on merits.

2. Mr. Shinde, learned counsel for the respondent no.1, in all fairness, has no objection.

3. In view of this, Civil Application is allowed .

4. Delay of 97 days, caused in filing the First appeal is hereby condoned.

5. Registry to register the First Appeal, subject to removal of office objections within four weeks from today, failing to which the registration of the First Appeal stands canceled without further reference to the Court.

6. Civil Application stands disposed of.

FIRST APPEAL STAMP NO. 16303 OF 2024

1. Issue notice to the respondents, returnable on 07.11.2025.
Learned counsel Mr. Shinde, waives service of notice for respondent no.1.
2. Call Record and Proceeding.
3. The matter be listed after service of notice is complete. In the meantime, applicant/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.

CIVIL APPLICATION NO. 6917 OF 2024 IN FAST/16303/2024 (Stay)

1. In view of the fact that the appellant has deposited the entire awarded amount in this Court pursuant to an earlier stay, the stay granted earlier is made absolute.
2. Civil Application is allowed in terms of prayer clause "C".
3. Civil Application stands disposed of.

[AJIT B. KADETHANKAR, J.]