



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 8447 OF 2025
IN FA/1819/2018

Rustam Kaduba Wayal & another

..Applicants

VERSUS

New India Assurance Co. Ltd.,

...Respondent

.....

Mr. Nitin Bhavar Patil, Advocate for Applicants.

Mr. M. R. Deshmukh, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 25th NOVEMBER, 2025.

PER COURT :

1. Heard for some time.
2. This Application is filed by the Respondent/original Claimant seeking withdrawal of the amount of compensation deposited by the Insurance Company with the Commissioner under Employees Compensation Act.
3. The total amount deposited is Rs. 7,67,040/-. This Court, by order dated 04.11.2020, has already permitted the Applicant to withdraw amount of Rs. 3,00,000/-. Presently, amount lying with the office of the Commissioner is Rs. 4,67,040/-. Now, the

Applicant has filed this Application in view of changed circumstances. The Applicant has suffered heart attack and has undergone surgery for the same and has to incur huge expenses.

4. The Application is vehemently opposed by the learned Advocate for the Insurance Company. He submits that in the Trial Court there is no disability certificate produced. The learned Commissioner, however, wrongly came to a conclusion that the Applicant has suffered permanent disability. As a matter of fact, twice thereafter the Applicant has got his driving licence renewed for driving heavy vehicle. He submits that the case of the Applicant that he has suffered disability itself is without record. Earlier, this Court has considered the Application and has specifically allowed withdrawal of Rs. 3,00,000/- which is a substantial amount. He submits that if the amount is now withdrawn it would be difficult to recover the same.

5. Considering the fact that the Applicant has undergone heart surgery, this Court finds that he certainly requires some amount. The Application is, therefore, partly allowed. Applicant is allowed to withdraw amount of Rs. 1,67,040/- on furnishing

undertaking that if the Appeal succeeds, he will re-deposit the amount with interest within a period of 12 weeks of such judgment. Undertaking be filed with the Commissioner under Employees Compensation Act. Copy of the said undertaking also be placed in the Appeal. In view of above, Application stands partly allowed.

(KISHORE C. SANT)
Judge

dyb