



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

13 CIVIL APPLICATION NO. 2903 OF 2025
IN FA/571/2025
WITH
CIVIL APPLICATION NO. 11998 OF 2024
IN FA/571/2025

SANGEETA W/O DILIP THOTE THROUGH NEXT FRIEND DILIP S/O SARJERAO
THOTE

VERSUS

BRANCH MANAGER NATIONAL INSURANCE CO LTD AND ORS

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Advocate for Applicant : Ms. Bhosle Meera Ambadasrao

Advocate for Respondent No. 1 : Mr. Ajit B. Kadethankar

...

CORAM : S. G. CHAPALGAONKAR, J.

Dated : 19.03.2025

PER COURT :-

ORDER IN WITHDRAWAL APPLICATION :

1. Heard learned Advocates appearing for respective parties.
2. Applicant/Original Claimant seeks permission to withdraw amount deposited by appellant insurer in pursuance to award passed by Tribunal in MACP No. 261 of 2019.
3. Claimant suffered permanent disablement in motor vehicular accident dated 16.12.2018. She instituted claim for compensation under Section 166 of the Motor Vehicles Act.
4. Appellant insurer contested claim mainly on the ground of quantum. Tribunal on evaluation of evidence passed award for Rs. Rs. 31,09,087/-. Insurer assailed award by partially accepting liability to the extent of Rs. 14,00,000/-.
5. There is no dispute that claimant suffered injuries in motor

vehicular accident involving insured vehicle. Evidence on record suggest that she suffered 80% permanent disablement. Tribunal assessed loss of earning by taking her notional income @ Rs. 15,000/- p.m.

6. Mr. Kadethankar, learned Advocate appearing for respondent No. 1 submits that there was no basis for assumption of such notional income which has resulted in exponential award.

7. Considering grounds of appeal, applicant is certainly entitled for partial withdrawal. In the result, following order :

ORDER

(i) Civil Application is allowed.

(ii) Applicant is permitted to withdraw 60% compensation amount as deposited by insurer along with accrued interest thereon.

(iii) Balance amount be kept in fixed deposit, in any nationalized bank, to be renewed from time to time till final disposal of appeal.

(iv) Civil Application stands disposed off.

ORDER IN APPEAL :-

8. Heard learned Advocate appearing for respective parties.

9. Looking to limited controversy as to assessment of compensation, call for record and proceedings.

10. Parties are put to notice that if time permits appeal may be heard finally at the stage of admission.

11. Stand over to 30.04.2025.

ORDER IN STAY APPLICATION :

12. Heard Mr. Kadethankar, learned Advocate appearing for appellant.
13. He submits that entire amount as per award passed by tribunal is deposited with registry of this Court.
14. In that view of the matter, application is allowed in terms of prayer Clause (B) and is disposed off.

(S. G. CHAPALGAONKAR)
JUDGE

mahajansb/