



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

906 CIVIL APPLICATION NO. 2463 OF 2025
IN FA/2786/2024
WITH
CIVIL APPLICATION NO. 12240 OF 2024
IN FA/2786/2024

RUSHIKESH BALASAHEB SAKUNDE AND OTHERS
VERSUS
SHRIKANT ROADLINE MANAGER AND ORS

....

Mr. Sohail Yusuf Shaikh, Advocate for the applicants
Mr. M. R. Deshmukh, Advocate for Respondent No.2

....

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 02.05.2025

PER COURT :-

- . Heard learned Advocates for respective parties.
2. The applicants are seeking permission to withdraw the amount deposited by the respondent/insurer in pursuance to the award dated 03.08.2024 passed by the Motor Accident Claims Tribunal, Shrirampur in MACP No. 29 of 2021.
3. The applicant suffered injuries in motor vehicular accident dated 13.12.2020 while traveling in a car. He sustained head injury, facial injury, injury to the left eye, dislocation of the

right hip, and also lost vision of left eye. He suffered permanent disability of up to 60%. Prior to the accident, he was working as a driver and because of injuries lost his earning capacity.

4. The claim was contested by the respondents on the ground that the claimant can perform alternate jobs without any difficulty and continue to earn his livelihood. As such, it is not a case of 100% loss of earning capacity. In support of the aforesaid contentions, reliance is placed on the cross-examination of PW-3, wherein it is stated that the claimant continues to be employed and is still performing other tasks for which he is paid. However, the Tribunal, relying upon the law laid down by the Supreme Court in *Parminder Singh Vs. Honey Goyal and others, 2025 INSC 361* held that the applicant suffered 100% loss of earning capacity and assessed the compensation accordingly.

5. Whether, in the facts of the present case, the Tribunal could have considered 100% loss of earning capacity, particularly, in light claimant's engagement with the employer could be a question to be determined at the appropriate stage. However, the fact remains that the claimant suffered permanent disablement and lost his prime employment as a driver.

6. In that view of the matter, the application deserves to be allowed. The applicants are permitted to withdraw 50% of the compensation amount as deposited by the Respondent/Insurance Company on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court that they shall re-deposit the amount, in case, adverse order is passed in appeal. Rest of the amount shall be kept in fixed deposit till further orders of this Court.

APPLICATION FOR STAY

. Learned Advocate appearing for the applicants submits that the entire amount as per the award passed has been deposited with the Registry of this Court.

2. His statement is supported by office endorsement.

3. Hence, application is allowed in terms of prayer clause (B) and disposed of.

[S. G. CHAPALGAONKAR, J.]

HRJadhav