



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

22 CIVIL APPLICATION NO. 64 OF 2025
IN FA/2364/2024

Rahul S/o Bhaskarao Shelke

VERSUS

The New India Assurance Company Ltd And Anr

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Advocate for Applicant : Mr. D.B. Pawar

Advocate for Respondent 1 : Mr. A. S. Usmanpurkar

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 06, 2025

PER COURT :-

1. The applicant/original claimant seeks permission to withdraw the amount deposited by the Respondent/Insurance Company in pursuance to the award passed by the M.A.C.T. Chhatrapati Sambhajinagar in MACP no.60/2020.

2. Learned advocate appearing for the applicant submits that applicant has suffered 25% permanent disablement in the motor-vehicular accident, which has been proved through evidence of CW-2 and certificate of disability exhibit 46. He would submit that the Tribunal considered notional income @ Rs.10,000/- p.a. Consequently, worked out compensation. Apart from the compensation towards permanent disability, Tribunal granted compensation towards medical expenses, pain and suffering.

3. Per contra, Mr. Usmanpurkar, learned advocate appearing for the insurer would submit that claimant was referred to Medical Board. Medical Board assessed zero disability. The claimant had suffered mere fracture, which has no consequence of loss of earning. Therefore, award is excessive and exorbitant. He would further submit that driver of the insured vehicle was not holding valid and effective driving license at the time of the accident.

4. Having considered the submissions advanced, apparently, there is no dispute that applicant suffered injuries in the motor vehicular accident involving insured vehicle. The documents relating to medical treatment are placed on record. Claimant appears to have suffered fracture. Disability is assessed to 25% by qualified medical practitioner. Although, respondent insurer seeks to rely upon the certificate of medical board that has not been proved in accordance with the law. Be that as it may, since award of Rs.8,06,497/- is passed in favour of the claimant, looking to the controversy involved, it would be appropriate to permit the claimant to withdraw an amount of Rs.3,00,000/- (Rs. Three Lakh) from deposited amount subject to filing of an undertaking that he shall refund the amount in case adverse order is passed in appeal within a period of four weeks alongwith the interest @ 6% p.a. Undertaking to be filed within a period of four weeks from today. On submission of the undertaking, claimant would be entitled to withdraw amount. Rest of the amount be kept in fixed deposit in any nationalized bank.

5. Civil Application stands disposed off.

(S. G. CHAPALGAONKAR, J.)

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