



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

83 CIVIL APPLICATION NO. 481 OF 2025
IN FA/359/2025

JAYRAM KACHRU BERAD
VERSUS
YOGESH PANDURANG KORDE AND ANR

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Advocate for Applicant : Mr. Shaikh Mazahar A. Jahagirdar and Mr. Shaikh
Sohail Yusuf

Advocate for Respondent No. 2 : Mr. S.S. Patil h/f Mr. Rohit H. Dahat

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CORAM : S. G. CHAPALGAONKAR, J.
Dated : 28.03.2025

PER COURT :-

1. Heard learned Advocate appearing for respective parties.
2. Applicant is seeking permission to withdraw amount deposited by respondent Insurance Company in pursuance to award dated 03.05.2023 passed by Motor Accident Claims Tribunal, Shrirampur in MACP No. 149 of 2020.
3. Applicant suffered injuries in motor vehicular accident dated 14.02.2020. Eventually, his right leg was amputated above knee. Apart from that he suffered other multiple injuries. He instituted claim seeking compensation against owner and insurer of offending vehicle. Tribunal after evaluation of evidence passed award of Rs. 98,52,325/- along with interest @ Rs. 6% p.a.
4. Aggrieved insurer filed present appeal mainly assailing quantum of compensation.
5. Mr. S.S. Patil h/f Mr. Rohit H. Dahat learned Advocate appearing for respondent/insurer submits that exponential award has been passed by Tribunal, although Claimant suffered amputation of leg, his business continued and nothing is produced on record to show actual loss of earning to him due to injuries suffered in accident.

6. Per-contra, Mr. Shaikh Mazahar A. Jahagirdar, learned Advocate appearing for applicant submits that applicant was young man of 38 of age at the time of accident. Amputation of leg has certainly hampered his physical capacity to carry out business. Tribunal considered merely 60% of loss of earning. Income is proved on the basis of income tax return.

7. Having considered submissions advanced and reasons as adopted by Tribunal along with grounds of appeal it is apparent that appeal is restricted to challenge the quantum. Entitlement of compensation is certain. In that view of the matter, applicant can be permitted partial withdrawal of amount pending appeal. Hence following order :

ORDER

- (i) The Civil Application is partly allowed.
- (ii) Applicant is permitted to withdraw 50% of compensation amount as deposited by respondent/ Insurer Company on furnishing usual undertaking to satisfaction of Registrar, (Judicial) of this Court to the effect that applicant shall re-deposit amount in case an adverse order is passed against him in appeal.
- (iii) Undertaking to be filed within a period of six weeks from today.
- (iv) Balance amount be kept in Fixed Deposit, in any nationalized Bank with renewal clause till disposal of appeal.
- (v) The Civil Application stands disposed off.

(S. G. CHAPALGAONKAR)
JUDGE