IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1410 OF 2014
IN
FIRST APPEAL (ST) NO.15099 OF 2013

Sanjay Krishnat Bhosale .. Applicant

IN THE MATTER BETWEEN

ICICI Lombard General Insurance Co.Ltd. .. Appellant

vs.

Sanjay Krishnant Bhosale and Ors. .. Respondents

Mrs.Varsha Chavan for the appellant

Mr.Akshay Shinde i/b Mr.A.M.Kulkarni for the applicant

CORAM : K.K.TATED, J.
DATED : 17/07/2015

PC:

1 Heard the learned counsel for the parties.

2 This application is preferred by claimants for withdrawal of the amount deposited by the appellant Insurance Company.

3 The learned counsel for the applicant submits that in an accident which occurred on 21.10.2009 applicant claimant sustained several injuries. He submits that Doctor's Certificate shows that claimant

suffered 42.8% permanent disability. He submits that the claimant was doing agricultural activities as well as milk business. He submits that because of 42.8% permanent disability, it is very difficult for the applicant to continue his day to day activities of agricultural land and milk business. He submits that because of accident, he lost income for more than 10 ½ months. He submits that this Hon'ble Court be pleased to allow the applicant to withdraw the amount deposited by them.

4 On the other hand the learned counsel for the appellant Insurance Company vehemently opposed the present Civil Application. She submits that the Tribunal has awarded excess amount by way of compensation. She submits that the claimant has not placed on record any cogent evidence to show that he was earning Rs.6,000/- per month. She submits that the Tribunal has awarded sum of Rs.30,000/- towards removing implants without any evidence or documents on record. She further submits that the Tribunal erred in coming to the conclusion that the claimant is entitled Rs.63000 towards loss of earning for 3 ½ months. She further submits that if entire amount is withdrawn by the claimant without furnishing any security and in case the appellant succeeds in the present First Appeal, it will be very difficult for them to recover the entire amount. Hence, there is no substance in the present Civil Application and same be dismissed.

5 I have heard the learned counsel for the parties. In the present proceeding in an accident which occurred on 21.10.2009 claimant sustained 42.8% permanent disability. He was doing agricultural activities as well as selling milk. On the date of accident he was 40

years old. Considering the fact that the claimant is doing agricultural activity as well and has sustained 42.8% disability, I am of the opinion that applicant can withdraw some amount without furnishing any security but subject to the outcome of the First Appeal. Hence, following order:

a) Applicant claimant is entitled to withdraw sum of Rs.2,50,000/-with accrued interest without furnishing any security but subject to the outcome of the First Appeal.

b) Claimant is entitled to withdraw further Rs.1,00,000/- with accrued interest by furnishing solvent security to the satisfaction of the Tribunal.

c) Tribunal is directed to invest remaining amount in Fixed Deposit of any nationalised bank initially for a period of one year and same be continued till the hearing and final disposal of First Appeal.

d) Civil Application is disposed of accordingly.

(K.K.TATED, J.)