

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE SIDE JURISDICTION

CIVIL APPLICATION NO.4381 OF 2014  
IN  
FIRST APPEAL NO.1664 OF 2012

Meena P. Desai

...Applicant

V/s.

New India Assurance Co. Ltd.

...Respondent

Mr. S. R. Singh i/b. S. R. Singh & Co. for the Applicant  
Mr. M. V. More for the Respondent

**CORAM: K.K. TATED, J.**  
**DATED : FEBRUARY 4, 2015**

**PC. :**

1. Heard the learned counsel for the parties. This Application is preferred by the original claimants for withdrawal of the amount deposited by the Appellant Insurance Co. pursuant to the order passed by this court.

2. The learned counsel for the Applicant submits that in an accident which occurred on 20/03/2006 the Applicant sustained serious injuries. He further submits because of accident the Applicant suffered 15% permanent disability. He further submits to that effect the certificate issued by the J.J.Hospital is on record. The learned counsel for the Applicant submits that on account of accident, the Applicant had to undergo nasal surgery and recently in the year 2012 eye surgery due to which she had to bear hospital charges and had to stay away

from work. He further submits that since the date of accident she has been suffering from vertigo and taking medicines. On the basis of this submission, the learned counsel for the Applicant submits that this Hon'ble Court be pleased to allow the Applicant to withdraw some amount deposited by the Insurance Co. He submits that if the Civil Application is not allowed, irreparable loss and injury will be caused to the Applicant.

3. On the other hand, the learned counsel for the Insurance Co. vehemently opposed the Civil Application. They filed their Affidavit-in-Reply dated 27/01/2015. He submits because of the accident, the Applicant has not suffered any monetary losses. He further submits as on today, the Applicant is in service and she is getting her regular pay. Therefore, there is no question of allowing the Applicant to withdraw the amount deposited by them. He further submits if the Applicant is allowed to withdraw the amount, nothing will survive in the present appeal. He further submits if they succeed in the appeal, it will be difficult for them to recover the same. Hence, the Civil Application be rejected with costs.

4. Considering the submissions made by the learned counsel for the Applicant, the Applicant suffered 15% permanent disability and the reasons disclosed in paragraph 4 of the Civil Application, I am satisfied that the Applicant has made out a case for allowing the Applicant to withdraw some amount. Hence, the following order:

- a) The Applicant is permitted to withdraw 50% of the amount deposited by the Appellant Insurance Co., without furnishing any security.

- b) The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized bank, initially for a period of three years which will be renewed from time to time till hearing and final disposal of the appeal.
- c) Civil Application stands disposed off accordingly.

**(K.K. TATED, J.)**