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

CIVIL APPLICATION NO.4377 OF 2014
IN
FIRST APPEAL NO.1663 OF 2012

Anuja G. 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 No.1.

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

P.C. :

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.

2. The learned counsel for the Applicant submits that Applicant sustained serious injuries which resulted into permanent disability. Due to accident she sustained injury fractured cervical spine with quadriplegias with acute respiratory failure and anterolisthefis of C4 and C5 with horizontal fracture of C5 vertibral body with code compression at level presenting with quadriplegias, prevertebral collection and multiple CLW over face. The Applicant was admitted to Lilavati Hospital from 20.03.2006 to 29.04.2006. She was not in a

position to attend office duty without the help of others, she was staying at Goregaon and her office is at Chembur, Mumbai, therefore, she requires daily expenses of Rs.700/- to 800/- for hiring auto rikshaw. She also requires attendant for all her personal work i.e. bath, cooking, physiotherapy, therefore, she depend on the servant for which expenditure comes to Rs.550/- per attendant per day. She also incurred medical expenses of Rs.1,60,000/- and loss of income more than Rs.1,00,000/-. She also requires for her daily medical expenses apart from her daily routine expenses. The learned counsel for the Applicant further submits that the performance in the Institute is affected. All this resulted into mental and physical stress to the Applicant.

3. The learned counsel for the Applicant further submits that the Appellant Insurance Co. has deposited Rs.8,77,928/- on 11.01.2013 as per order dated 18/12/2012 passed by this court.

4. The learned counsel for the Applicant submits that the Applicant paid hospital charges from her pocket in the sum of Rs.1,57,713/-. He further submits that the Applicant has to spend daily transportation charges and she requires to take assistance for her day-to-day activities. Hence, the Applicant may be allowed to withdraw the amount deposited by the Appellant Insurance Co.

5. The learned counsel for the Appellant Insurance Co. filed their Affidavit-in-Reply dated 27/01/2015 opposing the Civil Application. He submits the Applicant has not shown any reason for allowing her to

withdraw the amount deposited by them pursuant to the order of this court. He further submits the Applicant is getting her regular salary. Therefore, there is no question of loss of any income. He further submits if the amount is withdrawn by the Applicant, then it will be difficult for them to recover the same, if they succeed in the appeal. Hence, the Civil Application be rejected.

6. Considering the submissions made by the learned counsel for the Applicant and the reasons disclosed by the Applicant in paragraph 4 of the Application, I am satisfied that the Applicant has made out a case for allowing them to withdraw some amount without furnishing any security at present.

7. Hence, the following order:

a) The Applicant is entitled 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.)