

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2503 OF 2015
IN
FIRST APPEAL NO.753 OF 2015

Mayur Dilip Thadeshwar

... Applicant
(org. Resp. No.1)

Vs.

The New India Assurance Co. Ltd.

... Respondent
(org. Appellant)

Mr.V.M. Parkar for the Applicant
Mr.D.S. Joshi for Respondent

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 11th SEPTEMBER, 2015

PC.:

1. The application is moved for withdrawal of money granted vide judgment and award of the Motor Accident Claims Tribunal, Vasai in MACP No.88 of 2011. The insurance company has deposited Rs.16,60,000/-.
2. The learned Counsel for the applicant submits that it is an injury claim and applicant has suffered fractures on the body. He was not at fault. He was doing the business of making imitation jewellery and there is 100% functional loss.
3. The learned Counsel for the respondent/company has opposed the application. He submitted that the insurance company is having a good

case on merits. The Doctor, who treated the original applicant, was not examined but the Doctor, who gave the disability certificate i.e., one Dr.Naresh Khanna was examined. He submits that the insurance company is seriously challenging the loss of income and the claim of 100% functional disability. He also submitted that the driver was negligent and was not holding a valid licence.

4. Considering the submissions of both the learned Counsel for the parties, I am inclined to grant the application partly. Accordingly, the applicant is allowed to withdraw an amount of Rs.6 lacs, subject to an undertaking to be furnished by the applicant to the satisfaction of the Tribunal.

5. Civil Application stands disposed of accordingly.

(MRIDULA BHATKAR, J.)

CERTIFICATE

Certified that this Judgment/Order uploaded is a true and correct copy of original signed Judgment / Order.