FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.

CIVIL APPLICATION NO.3574 OF 2014
IN
FIRST APPEAL NO.696 OF 2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr. S. G. Thorat for the Applicant
Mr. H. G. Misar for the Appellant
Mr. Tushar Pimpale for the Respondent Nos.2 and 3.

CORAM : K. K. TATED, J.
DATE : APRIL 10, 2015

P.C.:

1. Heard. This Application is preferred by the claimants for withdrawal of the amount deposited by the Appellant Insurance Co. in the Tribunal.

2. The learned counsel for the Applicant submits that in an accident which occurred on 07/09/2008, the Applicant sustained serious injuries as stated in paragraph 7 of the Civil Application which read thus:

> (i) degloving injury over perineal region, 20 cm x 5 c/ depth 15 cm. (ii) membranous urethra fracture (iii) tear of rectum and anal canal tear of perineal body (iv) skin avulusion over right scrotum (v) compound grade III fracture int pubicrami right (vi)

rupture i/p with sub prochantric (vi) segmental displaced and sustained 12% permanent disability.

3. The learned counsel for the Applicant submits that the Applicant was hospitalized in various hospitals for treatment. He incurred more than Rs.1 lac for medical treatment. He further submits that it is very difficult for the Applicant to do his normal activities. Therefore, he is facing financial difficulties. He submits that the Applicant preferred Civil Application under section 166 of the Motor Vehicles Act claiming compensation of Rs.5,60,000/-. He submits that the Trial Court awarded Rs.4,50,000/- with 7.5% p.a. interest from the date of petition till realisation. The Applicant may be permitted to withdraw the amount deposited by the Appellant Insurance Co. in the Tribunal.

4. On the other hand, the learned counsel for the Appellant Insurance Co. vehemently opposed the Civil Application. He submits that the Applicant has not examined any Doctor to prove his injuries. Moreover, the Applicant has not placed on record, the medical bills to show that he has spent more than Rs.1 lac for his treatment, nor placed on record his income proof to show that he

was earning Rs.5000/- pm. He submits that the Tribunal, without considering the evidence on record held that the Applicant is entitled to compensation of Rs.4,50,000/- with 7.5% p.a. interest which is on higher side. He submits that, if the entire amount is withdrawn by the Applicant without furnishing any security, then it will be very difficult for them to recover the same if they succeed in the appeal. Hence, there is no substance in the appeal. Same be dismissed with costs.

5. It is to be noted that in the present proceedings, in an accident which occurred on 07/09/2008 the Applicant sustained several injuries as stated in paragraph 7 of the Civil Application. It is to be noted that the Tribunal held the notional income of the Applicant @ Rs.3000/- pm and awarded sum of Rs.39,000/- towards loss of income for 52 weeks as per schedule 2 of the Motor Vehicles Act. The Tribunal, considering the multiplier 18 and awarded Rs.3,24,000/- towards compensation. The Tribunal considered the medical bills and awarded Rs.77,000/- towards medical treatment and Rs.10,000/- towards pain and sufferings. Considering these facts, I am of the opinion that the Applicant is entitled to withdraw

some amount without any security. Hence, the following order:

a. The Applicant is entitled to withdraw 50% amount deposited by the Insurance Co., without furnishing any security, subject to outcome of the present appeal.

b. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.

c. Civil application stands disposed off accordingly.

JUDGE