Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 3358 OF 2015
IN
FIRST APPEAL (ST) NO. 28170 OF 2012

Janabai Rajaram Patil ...Applicant
Versus
New India Assurance Co Ltd. ...Respondent

Mr Himanshu B Takke, *for the Appellant.*
Mr TJ Mendon, *for Respondent No. 1/Applicant.*

CORAM: G.S. PATEL, J
DATED: 2nd August 2017

PC:-

1. The Tribunal awarded an amount of Rs. 1,77,000/- inclusive of No Fault Liability with 7.5% interest per annum in an injury case arising out of a vehicular accident. The claim was mounted under Section 166 of the Motor Vehicles Act 1988. The claimant was 45 years old. It was her case that while she was crossing the Jogeshwari-Vikhroli Link Road near Powai, an auto rickshaw which was driven in a most negligent manner hit her while she was on foot. She suffered several fractures and abrasions. After examining all the evidence including the doctors and documents produced, the tribunal awarded an amount of Rs.1,77,000/-.

2. The grievance of the appellant is that the amount awarded towards medical expenses (Rs 1 lakh) is excessive since only an amount of Rs. 39,306/- was actually proved, and that for the rest the claimant only produced bills. The argument is that the Evidence Act was not strictly followed. Of this submission perhaps the less said the better.

3. The next argument is that there was no "proper proof" of future medical expenses or anything to show that the injured needed day-to-day treatment. Neither of these arguments is compelling.

4. The entire amount with interest has been deposited. Having regard to the limited conspectus of the appeal, the limited amount awarded and the fact that this appeal has been pending since 2012 in a claim that was originally made in 2004, I will allow withdrawal of the entire amount without security but on furnishing an undertaking and subject to the outcome of the appeal.

5. The MACT will permit the withdrawal with all accrued interest on production of an authenticated copy of this order. The amount of statutory deposit is to be transferred to the MACT within two weeks from today and is to be invested with any nationalized bank.

6. The civil application is disposed of in these terms. There will be no order as to costs.

(G. S. PATEL, J)