

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1902 OF 2017
IN
FIRST APPEAL NO.1612 OF 2016

Shri Balbhim Baburao Sankpal ... Applicant

IN THE MATTER BETWEEN

The New India Assurance Co. Ltd. ... Appellant

Vs.

Shri Balbhim Baburao Sankpal & anr. ... Respondents

Mr.B.H. Bhalwal for the Applicant
Mr.D.S. Joshi for Insurance Company

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **AUGUST 16, 2017**

P.C.:

1. Upon urgent mentioning, taken on Production Board.
2. This Civil Application is moved by the original claimant i.e., the respondent in the First Appeal for withdrawal of the amount which was deposited by the appellant insurance company in terms of the award of the Motor Accident Claims Tribunal dated 15.7.2016. The amount of the award is Rs.1,32,87,512/- with interest.
3. Learned Counsel for the applicant i.e., the claimant, submitted that the applicant had met with an accident in 1999 and is quadriplegic and he needs money for medical expenses and also for residential accommodation as he has already sold his earlier flat in 2005 on account

of his medical treatment. The learned Counsel prayed that the entire amount of compensation is to be allowed to be withdrawn by him.

4. The learned Counsel for the insurance company while opposing this application submitted that the insurance company has deposited the entire decretal amount with interest accrued thereon which comes to Rs.2,69,00,000/- approximately. The learned Counsel submitted that earlier out of this money, a sum of Rs.10 lakhs was allowed to be withdrawn on 31.1.2017 and a further sum of Rs.10 lakhs on 9.3.2017.

5. The learned Counsel further submitted that the claimant has filed Cross Objections and the said Cross Objections and the First Appeal are to be heard by the Division Bench together and the insurance company has good defence on the point of negligence and quantum.

6. Considered the case of the applicant and also the defence taken by the insurance company. Cross Objections are filed by the applicant, however the claim is above the pecuniary jurisdiction of the Single Judge of this Court. However, the learned Counsel for the applicant submitted that he has moved this application in the First Appeal and his counter claim is yet to be heard and admitted. He submitted that the applicant is in dire need of money as he wants to vacate the tenanted house and buy a new house.

7. In view of the peculiar facts and circumstances of the case, the applicant/claimant is allowed to withdraw an amount of Rs.1 crore on furnishin usual personal undertaking before the Registrar, Motor Accident Claims Tribunal, Mumbai. The remaining amount shall be deposited in a fixed deposit with any nationalised Bank till the disposal of the appeal.

8. Civil Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)