

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

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995 CIVIL APPLICATION NO. 4135 OF 2018
IN FAST/611/2018

ASHWINI VIJAY GALGATTE
VERSUS
NEW INDIA INSURANCE CO. LTD., THR ITS DIV. MANAGER,
AURANGABAD AND ANR

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Advocate for Applicant : Mr. Nitin B. Suryawanshi
Advocate for Respondent No. 1 : Mr. Mohit Deshmukh h/f
Mr. S.G. Chapalgaonkar

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 23rd MARCH, 2018.

Order :-

1. Heard learned counsel for the applicant.
2. Learned counsel submits that applicant met with an accident on 2nd September, 2012 and had suffered serious injuries. She has not received any amount from the date of decision by the motor accident claims tribunal. Lot of expenses have been incurred on medical treatment. Learned counsel submits that she constantly requires medial attention and moreover 24 hours attendant is required. Additionally, she is required to visit monthly to Mumbai which requires lot of expenses. In the circumstances, she is in dire need of amount. It is difficult for her to go on with life without aid of the compensation. He submits that pursuant to order the amount

has been deposited by the appellant in this court. Therefore, he urges for withdrawal of amount of Rs.57,37,764/- deposited in this court including an amount of Rs.30,00,000/-, directed to be invested in nationalized bank by the tribunal.

3. Mr. Deshmukh, learned counsel appearing for insurer-appellant submits that quantum of compensation may not be supported by evidence and is under challenge in the appeal. He purports to refer to various aspects and also point out that amount of Rs. 30,00,000/- is directed to be invested in nationalized bank. He submits that request for withdrawal of entire amount deposited, is difficult to be acceded to.

4. Having regard to that expenses have been incurred on medical treatment and applicant requires medical attention, treatment and attendant and she being affected physically, it would be expedient to allow the applicant to withdraw the amount from the amount deposited in this court.

(I) The applicant is allowed to withdraw 75% of Rs.27,37,764/- along with interest on furnishing undertaking that claimant shall pay back / re-deposit the amount being withdrawn under this order within a period of three months from the date of decision in appeal, if the decision goes adverse to her interest.

- (II) Remaining 25% of Rs.27,37,764/- along with interest be allowed to be withdrawn on furnishing solvent security/surety to the satisfaction of the Registrar (Judicial).
- (III) Remaining amount of Rs.30,00,000/- be invested in nationalized bank, as directed by tribunal, be kept as it is.
5. Civil application is accordingly disposed of.

[SUNIL P. DESHMUKH]
JUDGE

MTK.
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