

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 2568 OF 2018
IN
FIRST APPEAL (ST.) NO. 25478 OF 2014**

Ms. Nancy Smith Carrapiett	... Applicant
IN THE MATTER OF	
The New India Assurance Co. Ltd.	... Appellant
V/s.	
Ms. Nancy Smith Carrapiett & Anr.	... Respondents

Mr. D.R. Mahadik for the Appellant.
Mr. A.M. Gokhale a/w Ms. Meenali Jain for the Applicant/Original Claimant.

**CORAM : K.K. SONAWANE, J.
DATE : 25th JULY, 2018.**

P.C. :

1 Heard learned Counsel for the Applicant and learned Counsel for the Respondent-Insurance Company. Perused the Application which is filed seeking permission to withdraw the decretal amount deposited before the Learned M.A.C.T. Mumbai in M.A.C.P. No.2707 of 2008. The learned Counsel for the Applicant submits that Applicant suffered 32% disability in vehicular accident occurred on 01.09.2008. The learned Tribunal after considering the entire facts on record, allowed the Application filed under Section 166 of the M.V. Act and granted the compensation amount in favour of Applicant. Pursuant to the impugned judgment and award, the Respondent-Insurance

Company deposited the decretal amount before the Tribunal. The Applicant-Original Claimant seeks permission to withdraw the same.

2 In view of the nature of subject matter and the grounds raised in the proposed Appeal, it reveals that there is no impediment to allow the applicant to withdraw the lump sum amount of Rs.9 lakhs from the total decretal sum of Rs.12,11,805/- deposited before the learned Tribunal. Definitely it would sub-serve the purpose to extend some sort of solace to the Applicant-Claimant. Hence Application deserves to be allowed.

3 Accordingly the Application stands allowed partly. The Applicant is hereby permitted to withdraw the lump sum amount of Rs.9 lakhs deposited on behalf of Insurance Company before the learned Tribunal in the proceeding of M.A.C.P. No.2707 of 2008 subject to undertaking that the Applicant shall refund the amount so withdrawn forthwith in case any contingency arises in the appeal. Rest of the balance decretal amount be invested in F.D.R. account for a period of two years in any Nationalized Bank or till decision of the present Appeal whichever is earlier with liberty to renew the F.D.R. in future, if required. The Civil Application stands disposed of in above terms. Registrar of M.A.C.T. Mumbai to do the needful to facilitate for disbursement of compensation amount in favour of Applicant-claimant as mentioned above.

(K.K. SONAWANE, J.)