

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

**FIRST APPEAL NO.274 OF 2018
WITH
CIVIL APPLICATION NO.760 OF 2018
WITH
CIVIL APPLICATION NO.2183 OF 2018**

National Insurance Company Limited

through its Mumbai Regional Office No.3

..Appellant

vs.

Sau. Maltibai Chiman Naik and Ors.

...Respondents

Mr.Rahul Mehta i/b KMC Legal Venture for the Appellant and for applicant in CAF-760/2018 and for Respondent in CAF No. 2183/2018.

Mr.Sanjiv A. Sawant for the Respondent No.1 in FA No.274/2018 and CAF No.760/2018 and for Applicant in CAF 2183/2018.

CORAM : V. M. DESHPANDE, J.

DATE : 6th JULY, 2018

P.C.:

FIRST APPEAL NO.274 OF 2018

. Heard learned counsel for the parties. **Admit.** Call R & P. Mr. Sawant, learned counsel waives service for original claimant.

CIVIL APPLICATION NO.2183 OF 2018

2. This application is for withdrawal of the amount. This application is moved by the original claimant-injured himself. Heard learned counsel for the parties. By the judgment and award dated 30/8/2017 passed in M.A.C.T. Application No.199 of 2009, learned Member of M.A.C. T. Pune has allowed the claim petition on behalf of the claimant. By the said award learned Judge of the Court below directed

opponents therein to pay jointly and severally Rs.23,66,630/- inclusive of no fault liability along with interest @ 9 % p.a. from the date of application till realization of the amount.

3. By the said Judgment it is directed by the learned judge of the Court below to deposit total compensation amount of Rs.10 Lakhs to be invested in Fixed Deposit in the name of applicant in any Nationalized Bank of her choice for a period of 3 years.

4. In the judgment which is impugned before this Court, the learned Judge of the Court below has specifically recorded that the applicant's functional disability is 100% that shows that applicant is unable to earn her livelihood. In that view of the matter in the interest of justice, I pass following order:

- i) Application is partly allowed and disposed of;
- ii) The applicant is entitled to withdraw amount of Rs.12 Lakhs from the amount which is deposited by the Insurance Company before the Court below on she giving an undertaking before the Court below at the time of withdrawal of the amount that in case appeal filed on behalf of Insurance Company is allowed then in that event within a period of two years from the judgment of this Court disposing of this appeal, applicant will refund the amount of Rs.12 Lakhs along with interest which shall be determined by this Court at the time of final hearing of the appeal;
- iii) After a period of 1 ½ years applicant will be entitled to move afresh before this Court for further withdrawal by pointing out hard-pressed necessity;
- iv) The Motor Accident Claims Tribunal, Pune shall invest the remaining amount with any nationalized bank in Fixed Deposit Receipt initially for a period of 3 years and thereafter it shall be renewed year after year to save the loss of interest;

v) The statutory amount of Rs.25,000/- which is deposited at the time of filing of the appeal shall also be invested by the Registry in the Fixed Deposit Receipt with any Nationalized Bank to save loss of interest.

CIVIL APPLICATION NO.760 OF 2018

5. Heard learned counsel for the parties. Mr. Sawant, learned counsel waives service for original claimant. This application is moved by the Insurance Company for stay. The Insurance Company is challenging the judgment and award passed by the learned Member, MACT, Pune dated 30/8/2017 in Claim Petition No.199/2009. This Court has granted ad-interim stay in favour of the appellant on the condition that the appellant to deposit entire decretal amount. Learned counsel for the appellant submits that even prior to the said order, the appellant has deposited the entire amount before the Court below. Statement is accepted.

6. Today, this Court has admitted appeal filed by the Insurance Company and also has allowed in part application filed on behalf of the claimant for withdrawal of the amount. Since the Insurance Company has deposited entire decretal amount, there shall be stay to the execution of the award passed by the Court below.

7. Application is allowed and disposed of.

(V. M. DESHPANDE, J)