FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2718 OF 2019
IN
FIRST APPEAL NO.1090 OF 2019

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.V.V.Parshurami for the applicant

Mr.Raghujit Singh for the respondent no.1

CORAM : K. K. TATED, J
DATE : AUGUST 7, 2019

P.C.:

. Heard.

2 By this Civil Application, Applicant original Claimant is seeking permission to withdraw the amount deposited by the appellant Insurance Company to satisfy the judgment and award dated 15.11.2018 passed by MACT, Thane in MACP No.339 of 2017.

3 The learned counsel for the Applicant submits that in an accident which occurred on 10.2.2017, Applicant original Claimant sustained injuries. He submits that at the time of accident, Applicant was 23 years old. He submits that Applicant sustained 60% disability. To prove the said disability, Applicant recorded evidence of Dr. Lokare who issued disability certificate Exhibit 40. He submits that considering the injury sustained by the Applicant and the disability certificate at Exhibit 40, this Hon'ble Court be pleased to allow the Applicant to withdraw the amount deposited by the appellant Insurance Company during the pendency of the present First Appeal.

4 On the other hand, the learned counsel for the Appellant vehemently opposed the present Civil Application. He submits that in the present proceeding, Tribunal held that Applicant original Claimant is entitled sum of Rs.7,75,714/- towards compensation. He submits that Tribunal held that Claimant is entitled sum amount of Rs.5,78714 towards medicines and indoor patient bill. He submits that in the present proceeding, Applicant recovered sum of near about Rs.4.0 lacs from medi claim policy. Therefore, Applicant is not

entitled medical bills in full. Tribunal ought to have deducted sum of Rs.4.0 lacs received by the Applicant in medi claim policy. Therefore, they have good chance of success in the present proceeding. If entire amount is withdrawn by the Applicant during the pendency of the present First Appeal, then nothing will survive in this matter. Therefore, there is no substance in the present Civil Application. Same be dismissed.

5 Heard both the sides at length.

6 It is to be noted that main objection of the appellant Insurance Company is that Tribunal ought to have deducted sum of Rs.4.0 lacs from the total compensation towards medi claim policy amount received by the appellant original Claimant.

7 Considering these facts, I am of the opinion that Applicant original Claimant can withdraw sum of Rs.3,75,000/- with accrued interest without furnishing any security. Hence, following order is passed:

a. Applicant original Claimant is entitled to withdraw sum of Rs.3,75,000/- with accrued interest without furnishing any security.

b. Tribunal is directed to invest the remaining amount in fixed deposit of any nationalized bank initially for a period of one year and same be continued till further orders.

c. Civil Application stands disposed of accordingly.

(K.K.TATED, J.)