



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.11956 OF 2024
IN
FIRST APPEAL (STAMP) NO.12994 OF 2024

Jhumbarbai Bapurao Hud

...Applicant

Versus

The New India Assurance Co. Ltd.,
Through Its Branch Manager & Ors.

...Respondents

WITH
CIVIL APPLICATION NO.5456 OF 2024
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IN
FIRST APPEAL (STAMP) NO.12994 OF 2024

Adv. Moisali Amjedali Syed for Applicant in CA/11956/2024 and for Respondents in CA/5456/2024 & CA/5457/2024.

Adv. Pratap P. Mandalik for Applicant in CA/5456/2024 & CA/5457/2024 and for Respondent No.1 in CA/11956/2024.

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 8th JANUARY 2025

P.C.:-

CIVIL APPLICATION NO.5456 OF 2024 :-

1. Re-issue notice to Respondent No.3, returnable on 5th February 2025.

CIVIL APPLICATION NO.11956 OF 2024 :-

2. Heard learned Advocate appearing for respective parties.
3. Applicant seeks permission to withdraw the amount deposited by Appellant/Insurer in pursuance to the award passed by Motor Accident Claims Tribunal, Aurangabad in MACP No.452 of 2022.
4. Admittedly, Applicant/Original Claimant suffered injuries in motor vehicle accident dated 15th February 2021, consequently, his right leg has been amputated. The claim was contested by insurer mainly on the ground of quantum. Tribunal after considering evidence on record passed an award of Rs.10,87,028/-. Appellant-Insurer assails the award contending that Tribunal has wrongly considered notional income @ Rs.10,000/- per month, as such award is excessive and exorbitant.
5. Having considered submissions advanced, it is apparent that Claimant lost her leg due to the injuries suffered in the accident. She was aged about 50 years at the time of accident. Since the appeal is only on the ground of quantum, her entitlement to receive the compensation amount cannot be disputed. Consequently, Applicant is permitted to withdraw 50% of the amount deposited by insurance company along with accrued interest thereon. Rest of the amount be kept in fixed deposit with any nationalized bank, initially, for the

period of 15 months which shall be renewed time to time till disposal of appeal.

6. Civil Application stands disposed of.

CIVIL APPLICATION NO.5457 OF 2024:-

7. Heard Mr. Pratap Mandalik, learned Advocate appearing for Applicant and Mr. Moisali Sayed, learned Advocate appearing for Respondent-Claimant.

8. Mr. Mandalik submits that entire amount as per award has been deposited with Registry of this Court. Statement is not controverted by Respondent/Claimant. Hence, civil application is allowed in terms of prayer clause (B).

(S. G. CHAPALGAONKAR, J.)