

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 3494 OF 2014
IN
FIRST APPEAL NO.1221 OF 2014

The Oriental Insurance Co. Ltd. .. Applicant.
Vs
Smt. Chhaya Machchindra Sabale and Others. .. Respondents
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Shri Devendranath S. Joshi for the Applicant.
Shri Jitendra Gaikwad i/b Shri B.S. Shinde for the Respondent No.5.
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CORAM : A.S. OKA & G.S. PATEL, JJ
DATED : 11TH DECEMBER 2015

PC.

1. Heard the learned counsel appearing for the Applicant and the learned counsel appearing for the fifth Respondent.
2. In the present Appeal, the ground of breach of the terms and conditions of the policy of the insurance is involved. Therefore, the decretal amount deposited by the Applicant-Insurer will have to be secured. There is already an order of this Court made on 12th October 2015 by which the first Respondent was permitted to withdraw a sum of Rs.2 lacs and the fourth Respondent was permitted to withdraw the sum of Rs.50,000/-. The second and third Respondents are minors.
3. We have perused the operative part of the impugned award. The share of the compensation amount of the first Respondent is fixed at 35%. The second and third Respondents are entitled to 25%

share each and the share of the fourth Respondent is fixed at 15%.

4. Considering the controversy involved, we dispose of the Petition by passing the following order:

ORDER :

- (a) The decretal amount deposited by the Applicant shall be invested in fixed deposits in any nationalized bank till the disposal of the Appeal;
- (b) 25% amount of the compensation payable to the second and third Respondents each shall be invested separately;
- (c) The quarterly interest accrued on the fixed deposits made in the names of the second and third Respondents shall be paid over to the first Respondent till the date on which the second and third Respondents respectively attain the age of majority. After the second and third Respondents attain the age of majority, they will be entitled to move this Court for seeking to withdraw a reasonable amount;

- (d) The share of the amount of compensation payable to the fourth Respondent shall be also invested separately. Interest accrued on the fixed deposit shall be paid over to the fourth Respondent;
- (e) Subject to the above modification, the ad-interim relief granted earlier shall continue to operate as the interim relief;
- (f) The benefit of the interim relief will be available only to the Applicant. It will be open to the first to fourth Respondents to execute the award as against the fifth Respondent. If in the execution, any amount is recovered from the fifth Respondent, the Tribunal shall not permit withdrawal of the said amount unless a specific permission to that effect is granted by this Court.
- (g) Civil Application is disposed of on the above terms.

(G.S. PATEL, J)

(A.S. OKA, J)