IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2604 OF 2014
IN
FIRST APPEAL NO.1061 OF 2013

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.

Mr.T.J.Mendon for the applicant

Mr.M.M.Sathaye for the respondent no.1

Mr.D.S.Joshi for the respondent no.6

CORAM : K.K.TATED, J.
DATED : 7TH JANUARY, 2015

PC:

1 Heard the learned counsel for the parties.

2 This application is preferred by original claimant for withdrawal of the amount deposited by the appellant Insurance Company, Bajaj Allianz General Insurance Company Ltd.

3 The learned counsel for the applicant submits that the MACT, Sindhudurg at Oros in MACP No.53 of 2010 awarded total compensation of Rs.17,27,719.20. He further submits that the Tribunal allowed applicant no.1

to withdraw a sum of Rs.7,27,719.20 and to invest a sum of Rs.2,00,000/- in fixed deposit of any nationalised bank initially for a period of three years.

4 The learned counsel for the applicant submits that the applicant nos.2 and 3 are minors. They are taking education. Therefore, it is very difficult for the applicant to maintain applicant nos.2 and 3.

5 The learned counsel for the applicant submits that this Honourable Court be pleased to allow the applicant to withdraw a sum of Rs.9,27,719.20 as awarded by the Tribunal for day to day expenses, maintaining herself as well as her two minor children. He submits that if application is not allowed, irreparable loss and injury will be caused to the applicant.

6 On the other hand, the learned counsel for the appellant Insurance Company vehemently opposed the present Civil Application. He submits that the Tribunal by judgment and award dated 29th December, 2012 directed Insurance Company to pay compensation and then to recover the same from respondent no.4, owner of the truck. He submits that if the applicant is allowed to withdraw the entire amount without furnishing any security, it

will be very difficult for them to recover the same, in case applicant succeeds in the First Appeal.

7 Considering the submissions made by the learned counsel for the Applicant, it is to be noted that the Tribunal by judgment and award dated 29th December, 2012 allowed applicant no.1 to withdraw a sum of Rs.7,27,719.20 in favour of the applicant no.1 i.e. mother of applicant nos.2 and 3. Considering the fact that applicant no.1 lost her husband in the accident and applicant nos.2 and 3 are minors, I am of the opinion that applicant is entitled to withdraw some amount. Hence, following order:

(a) Applicant no.1, Smt. Ranjana Prakash Tilwe is permitted to withdraw sum of Rs.3,00,000/-without furnishing any security.

(b) Applicant no.1, Smt. Ranjana Prakash Tilwe is further permitted to withdraw sum of Rs.3,00,000/- by furnishing solvent security to the satisfaction of the Tribunal.

(c) Remaining amount be invested in fixed deposit as per judgment and decree dated 29th December, 2012.

(d) Liberty granted to the applicant to take out appropriate application for withdrawal of the remaining amount as and when occasion arises. That application will be decided on its own merits.

(e) Civil Application is disposed of accordingly.

(K.K.TATED, J.)