

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2678 OF 2016
IN
FIRST APPEAL NO.1022 OF 2012

Shailaja Dilip Shinde and ors Applicants.

V/s.

Reliance General Insurance Co.Ltd. Respondent

Ms. Aditi Naikare, I/by Pradeep J. Thorat, for the Applicants

Ms. Deepika Motagi, I/by Res Juris, for the Respondent.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 24TH AUGUST, 2016.

P.C. :

1. This application is preferred by the original claimants seeking withdrawal of further amount of compensation. It is submitted that this Court vide its order dated 25th October, 2012, permitted the applicants to withdraw an amount of Rs.6,00,000/- and liberty was granted to the applicants to apply for further withdrawal, if the appeal is not taken up for hearing or decided within 2 years.

2. It is submitted in paragraph No.5 of the application that for maintenance of applicants, some amount is necessary as applicants have no source of income and applicant Nos 2 and 3 are minor, so for their educational expenses, amount amount is required.

3. Learned counsel for respondent has strongly objected withdrawal of amount on the ground that the claim is challenged on the total exoneration. F.I.R. is also filed against the deceased as the accident has occurred on account of his negligence. Hence it is submitted that as already applicants were permitted to withdraw an amount of Rs.6,00,000/-, now further withdrawal should not be allowed.

4. Considering the fact that already applicants were granted liberty for withdrawal of further amount in case appeal is not heard within two years and as the appeal is not heard within two years from the date of said order and as the total amount deposited in the Tribunal is Rs.30 lacs, in my considered opinion, having regard to the requirements of the minor children and destitute wife for maintenance and educational expenses, applicants are permitted to withdraw further amount of Rs.6,00,000/-, subject to furnishing usual undertaking.

5. Application is disposed of.

[DR. SHALINI PHANSALKAR-JOSHI, J.]