IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2382 OF 2015
IN
FIRST APPEAL No.802 of 1993

Shri.Suryakant Balkrishn Ghatge ..Applicant

IN THE MATTER OF

Smt.Kamla Chhaganlal Jain (deleted)
and Anr. ..Appellant

V/s
Shri.Suryakant Balkrishna Ghatge ..Respondent

Mr.T.J.Mendon, for the Applicant
Mr.S. S.Jinsivale for Respondent No.2 -Insurance Company.

CORAM : G.S.KULKARNI, J.
DATE : 14th DECEMBER,2016

P.C.:

1. In pursuance of the order dated 7th December 2016 passed by this Court, learned counsel for the Applicant as also learned counsel for the Respondent-Insurance Company have given their respective calculations as to the amount which is required to be brought back and deposited in this Court, in pursuance of the Judgment and Award of the Tribunal. There is a difference in the calculation of the said amount, when it should not be.

2. The position as would emerge is that in pursuance of the orders passed by this Court, the Respondent-Insurance Company had deposited a fixed amount. The amount was accruing interest during the pendency of the Appeal. The Judgment and Order passed by the Tribunal in Appeal was set aside and, therefore in pursuance of the orders passed by this Court, the Respondent-Insurance Company had withdrawn certain portion of the amount The Applicant was also permitted to withdraw certain amount. There should not be any dispute on this position. However, it is pointed out on behalf of the Applicant that admittedly, after the orders passed by this Court allowing the above Appeal, an amount of Rs.10,75,823/-(principal loan plus accrued interest) was withdrawn by the Respondent-Insurance Company.

3. The Judgment and Order passed by this Court is set aside by the Apex Court and the Judgment and award passed by the Tribunal has been restored. Therefore, the obvious consequence would be that an amount of Rs.10,75,823/-, which was withdrawn by the Respondent/ Insurance Company would entail to the benefit of the Applicant, as per the Judgment and Order passed by the Tribunal, would be required to be restored.

4. Thus, in view of the orders passed by the Apex Court, the position of the status quo in regard to the deposit of the amount by the respondent from Insurance Company necessarily is required to be restored. Accordingly, an amount of Rs.10,75,823/-, which was actually withdrawn and which admittedly had become payable

to the Applicant by the Judgment and Award passed by the learned Member of the Motor Accident Claims Tribunal would enure to the benefit of the Applicant.

5. Accordingly, the Respondent/Insurance Company is directed to deposit in this Court the amount of Rs.10,75,823/- which came to be withdrawn by the Respondent/Insurance Company. The Insurance Company shall deposit the said amount with further interest at the rate of 9% per annum with effect from the date of withdrawal till the date of deposit. The amount accordingly be deposited within a period of four weeks from today.

6. The Applicant is at liberty to withdraw the amount after the same is deposited. The intimation of the deposit of the said amount be issued by the learned Advocate for the Respondent/ Insurance Company to the learned Advocate for the Applicant.

7. Civil Application No.2382 of 2015 is, accordingly, disposed of in the above terms. No order as to costs. In case of any clarification, liberty to apply.

[G.S.KULKARNI,J]