IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1980 OF 2015
IN
FIRST APPEAL NO. 94 OF 2013

Mrs. Rucha Pradumna Sant & Ors ..Applicants
Vs.
United India Insurance Co. Ltd. & ors ..Respondents

Mr. Bhushan Walimbe i/b Ms Preeti Walimbe for the Applicants in Civil Application and for the Respondents in First Appeal
Mr. K. N. Kandekar for the original Appellant and for the Respondents in Civil Application

CORAM : R. M. SAVANT, J.
DATE : 7th JULY, 2016

P.C.

1 The above Civil Application has been filed seeking withdrawal of the amount deposited by the Respondents herein i.e. the original Appellants M/s. United India Assurance Co. Ltd. The Claimant Nos.1 and 2 are the widow and daughter of the deceased Pradumnya Sant and the Claimant Nos.3 and 4 are the parents of the said Pradumnya Sant. The MACT Baramati has attributed 20% contributory negligence to the said Pradumnya Sant for the accident occurring and accordingly has awarded the total compensation of Rs.43,34,639/- a/w 9% interest p.a., the said amount comes to Rs.52,32,238/- which the insurance company has deposited in the MACT Baramati. The challenge to the award passed by the MACT is on the ground that the Trial Court had erred in pegging the contributory negligence @ 20%

when it ought to have been higher. As indicated above the said Pradumnya Sant died on account of the injuries he suffered in the said accident. The principal amount deposited is Rs.43,34,639/- with interest therein. As indicated above the case of the insurance company is on the ground that there was higher contributory negligence then 20% which the Trial Court has attributed. By an order passed on 22-10-2012 the Applicants were allowed to withdraw an amount of Rs.3 lakhs from the compensation amount. The said amount has not been withdrawn and the Applicants have filed Civil Application No.1981 of 2015 for the said purpose. In so far as the said Civil Application is concerned, the same would be dealt with independently.

2 In my view, it would be just and proper to permit the Applicants to withdraw an amount of Rs.15 lakhs without security and an amount of Rs.10 lakhs with solvent security to the satisfaction of the Trial Court. Hence even if the insurance company succeeds and the contributory negligence is to be computed at a higher percentage there would be still a buffer of about Rs. 28 lakhs i.e. Rs.10 lakhs with security and the balance amount of Rs.18 lakhs which would be remaining to protect the interest of the insurance company. Hence the Appellant would be entitled to withdraw the amount deposited as above with commensurate interest on the same. The balance remaining i.e. Rs.18 lakhs with commensurate interest thereon would be deposited by the MACT Baramati in a Fixed Deposit of a nationalised bank for a period of 2

years at the inception and thereafter to be renewed for such a period as the office of MACT Baramati deems it appropriate. Needless to state that the amount permitted to be withdrawn would be subject to the result of the Appeal. The Civil Application is accordingly disposed of.

3 Private paper book to be filed within one year from date.

[R.M.SAVANT, J]