IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3865 OF 2016
IN
FIRST APPEAL (STAMP) NO.25760 OF 2015

Ramkripal Ramadhar Pal …. Applicant

In the matter between

Reliance General Insurance Co. Ltd., Mumbai …. Appellant

V/s.

Ramkripal Ramadhar Pal & Anr. …. Respondents

Ms. Deepika Motagi, i/by M/s. Res Juris, for the Applicant-Original Respondent No.1.

Mr. T.J. Mendon for Respondent No.1-Original Appellant.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 1ST SEPTEMBER 2016.

P.C. :

1. Heard learned counsel for the parties.

2. This Civil Application is preferred by the original claimant No.1 seeking withdrawal of the amount of compensation deposited by the appellant-Insurance Company in the Office of the Commissioner for Workmen's Compensation and Judge, 2nd Labour Court, Thane in Application (WCA) No.278/C-57/2013.

3. It is submitted that it was an injury claim and the applicant has suffered amputation of left leg, above knee, which has resulted into 100% loss of earning capacity. Considering great deal of hardship, he is not in a position to earn any amount and already substantial amount has been incurred towards his medical expenses and other incidental charges. Learned counsel for the applicant, therefore, submits that the applicant may be permitted to withdraw, at-least, some amount towards reimbursement of his medical expenses and maintenance.

4. Learned counsel for the appellant-Insurance Company opposes this Civil Application on the ground that the applicant was working as a 'Cleaner' with the Driver and his claim is not covered under the Insurance Policy. Therefore, the appellant-Insurance Company is challenging the Award on the plea of total exoneration.

5. Learned counsel for the applicant-Insurance Company has, therefore, placed reliance on Section 147 and Proviso (c) thereto, according to which, in case of a goods carriage, the person carried in the vehicle during the course of employment is not necessary to be expressly covered in the policy, as the policy is inclusive of the liability towards such person also.

6. In my considered opinion, without entering into the question of merits or liability, at this stage, having regard to the urgent financial need of the applicant, who has no source of income, having suffered 100% disability, his claim for withdrawal of 50% of the compensation amount, deposited by the appellant-insurance Company, needs to be granted. Hence, the order.

<u>"O R D E R"</u>

The applicant/original claimant No.1-Ramkripal Ramadhar Pal is permitted to withdraw 50% of the compensation amount deposited by the appellant-Insurance Company in the Office of the Commissioner for Workmen's Compensation and Judge, 2nd Labour Court, Thane in Application (WCA) No.278/C-57/2013, without furnishing any security, but subject to furnishing usual undertaking.

7. Civil Application stands disposed of in the above terms.

[DR. SHALINI PHANSALKAR-JOSHI, J.]