

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

CIVIL APPLICATION NO. 4090 OF 2016
IN
FIRST APPEAL (STAMP) NO. 21103 OF 2015

Mr. Shaju Seelan & Anr. .. Applicants

In the matter of

Bajaj Alliance General Insurance .. Appellant

Vs.

Mr. Shaju Seelan & Ors. .. Respondents

Ms. Yogita Deshmukh for the Appellant.

Mr. Sanjiv A. Sawant for the Applicants/Respondent Nos.1 & 2.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 19th SEPTEMBER, 2016.

P. C. :

1. This application is preferred by the original claimant seeking withdrawal of the amount of compensation as deposited by the respondent-Insurance Company with the Tribunal. The total claim of Rs.7,26,000/- was allowed by the Tribunal with interest at the rate of 8% per annum from the date of petition.

2. It is submitted by the learned counsel for the applicants that applicant No.1 is husband and applicant No.2 is minor son of the deceased. The amount is now required for the educational and other expenses of the minor and hence the applicants may be permitted to withdraw the amount of compensation as deposited with the Tribunal.

3. Learned counsel for the Insurance Company opposes the said application on the ground that the defence of the Insurance Company is on total exoneration and in such situation, if the amount is allowed to be withdrawn, it will be difficult to recover the same, if the Insurance Company succeeds in the appeal.

4. The impugned order passed by the Tribunal reveals that the Tribunal has directed respondent Nos.2 and 3 to pay jointly and severally amount of compensation of Rs.7,26,000/- along with interest at the rate of 8% per annum thereon. Out of total compensation, Rs. 1,00,000/- was directed to be paid to applicant No.1 and the balance amount was directed to be invested in fixed deposit in the name of minor applicant No.2 in any nationalized bank till applicant No.2 attains age of majority.

5. Now, applicant No.2 has yet not attained the age of majority. In such a situation, even if the defence of the Insurance Company on total exoneration is kept aside, it would not be appropriate to allow the applicant No.1 to withdraw the entire amount awarded by the Tribunal to the share of minor applicant No.2. Hence, applicant No.1 is permitted to withdraw the amount of Rs.1,00,000/- which was allotted to his share and Rs.2,00,000/- which was allotted to the share of minor applicant No.2 subject to furnishing usual undertaking but without any security.

6. The Civil Application is disposed of accordingly.

[DR. SHALINI PHANSALKAR-JOSHI, J.]