

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Civil Application NO. 4741 OF 2016

IN

First Appeal (ST) NO. 3122 OF 2016

Smt. Rita Ramesh Uphadhaya And Ors. ...Applicants

In the matter between

M/s. New India Assurance Company Ltd. ...Appellant

vs.

Smt. Rita Ramesh Uphadhaya And Ors. ...Respondents

WITH

Civil Application NO. 2652 OF 2016

IN

First Appeal (ST) NO. 3122 OF 2016

The New India Assurance Co. Ltd. ...Applicant

Versus

Smt. Rita Ramesh Uphadhaya And Ors. ...Respondents

Mr.Milind V. More, for the Appellant.

Mr.Vilas Ramchandra More, for Respondent Nos.1 to 3.

CORAM: G.S.KULKARNI, J.**DATE: 30th NOVEMBER,2016**

P.C.:-

1. Heard the learned Counsel for the applicants (orig.Respondents-Claimants) and the learned Counsel for the respondent (original appellant-Insurance Company).

2. By Civil application No.4741 of 2016 the applicants (original claimants) are seeking withdrawal of the amount of compensation as awarded by the Tribunal and deposited by the respondents before the Trial Court in pursuance of the order dated 21 June 2016 of this Court. The applicant no.1 is a widow, applicant no.2 is a father who is aged about 74 years, applicant no.3 is the mother who is also 69 years of age. Both applicant nos.2 and 3 are senior citizens. Applicant Nos.4,5 and 6 are minor-the children of the deceased.

3. Civil Application No.2652 of 2016 has been filed on behalf of the Appellant – New India Assurance Co.Ltd. seeking a stay on the execution of the judgment and order dated 12 December 2014 passed by the learned Member, MACT, Vasai in Motor Accident Claim Petition No.106 of 2012. The learned counsel for the Applicant states that the award amount as directed in the impugned judgment and award has already been deposited before the Tribunal and therefore the impugned judgment and award deserves to be stayed.

4. As Civil Application No.4741 of 2016 has been filed by the Respondents seeking withdrawal of the said amount

which is deposited both these Civil Applications are heard together.

5. Perused the averments as made in the civil application No.4741 of 2016. Though the prayers as made in the said civil application are for a blanket withdrawal of Rs.37,33,342/- as awarded by the Tribunal, considering the nature of the order passed by the learned Member of the Motor Accident Claims Tribunal, the said prayers can be molded to consider the directions as contained in paragraph 5(a), (b) and (c) of the operative order of the judgment, as in paragraph 5(d) of the order the learned Member of MACT has directed that an amount of Rs.7,00,000/- each be deposited in fixed deposit in any of the nationalised bank in the name of the minors namely applicant Nos.4 to 6 who are under the guardianship of applicant No.1 and with right to collect the quarterly interest thereon, till they attain majority.

6. Considering the nature of the liabilities and the expenditure which are required to be incurred by the Applicant Nos.1 to 3, at this stage it would be appropriate and in the interest of justice that the Applicants are permitted to withdraw

the amount as specified in paragraphs 5(a), (b) and (c) namely Rs.6,00,000/-, Rs.30,000/- and Rs.2,00,000/- alongwith the proportionate accrued interest at the time of deposit before the Tribunal and the further interest accrued thereon till date, subject to the Applicants filing an usual undertaking in this Court within a period of two weeks from today.

7. In the circumstances, as the Respondents are permitted to withdraw the amount as observed above, the learned Counsel for the Respondents (claimants) makes a statement that at this stage the Respondents would not initiate any proceedings for execution of the impugned judgment and award, without leave of the Court.

8. Civil Application No.2652 of 2016 and Civil Application No.4741 of 2016 are disposed of in the above terms. No costs.

(G.S.Kulkarni, J.)