

IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION NO.711 OF 2017
IN
CIVIL REVISION APPLICATION NO.15 OF 2015

Datta Vishwanath Kavlekar & Anr. Applicants.

Versus

The New India Assurance Co. Ltd. & Ors. ... Respondents

Mr. R. G. Ramani, Advocate for the Applicants.

Mr. Emerico Estevam Afonso, Advocate for the Respondents.

Coram : N.M. Jamdar, J.

Date : 21 December 2017.

P.C. :

In this Civil Application the relief is sought to withdraw a sum of Rs.3,00,000/- pending the Civil Revision Application.

2. The Applicant had filed a Claim Petition No.93/2010 in the Motor Accident Claims Tribunal, Panaji in respect of the compensation on account of death of their daughter in the motor vehicular accident. The Tribunal by order dated 5 September 2014

allowed the Claim Petition and the Respondents including the Insurance Company were held jointly and severally liable to pay Rs.10,25,000/- along with interest at the rate of 6% per annum. This order was challenged by the Insurance Company in Civil Revision Application. The Revision was admitted and the Insurance Company was directed to deposit the entire amount.

3. The present Civil Application is taken out inter alia praying for withdrawal of Rs.3,00,000/- on the ground that the Applicants require the same towards the medical expenses. It is the contention of the learned counsel for the Applicants that only grievance made by the Insurance Company in the Revision is relating to the applicability of the multiplier and it is not the case that the Applicants are not entitled to any amount at all. Considering this position and that none had appeared on behalf of the Respondent-Company inspite of the notice, on 14 December 2017 the following order was passed.

“ None appears for the Respondents. The learned Counsel for the Applicants states that the Respondent-Insurance Company is served, so also the learned Counsel appearing for the Respondent-Insurance Company-original Applicant.

2. S.O. to 21 December 2017. If no reply is filed to the Civil Application, it will

be presumed that the Respondent-Insurance Company has no objection for grant of the amended prayer clause (ii) for withdrawal of the part of the amount, and an appropriate order will be passed.”

4. The learned counsel appears for the Respondent-Insurance Company. No reply is filed.

5. The perusal of the impugned order clearly states that it is not the case that the Applicants are not entitled to any compensation. The Civil Revision is pending and even if the liberty is granted to the Applicants to withdraw the part of the amount, it will always be subject to the outcome of the Civil Revision Application.

6. In these circumstances, since no reply is filed, the prayer of the Applicants to withdraw a sum of Rs.3,00,000/- out of the amount deposited in the Claim Tribunal is granted and the Applicants are permitted to withdraw the said amount. The withdrawal of the amount will be subject to the further orders to be passed in the Revision Application.

7. The Civil Application is disposed of.

N.M. Jamdar, J.