

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 978 OF 2016

IN

FIRST APPEAL NO. 32 OF 2016

SMT. PRATIMA PANDHARI NAIK AND 2
ORS.,

... Applicants

Versus

HDFC ERGO GENERAL INSURANCE CO.
LTD., THR. ITS AUT. SIGNATORY MR.
DEEPAK FADNAVIS AND ANR.,

... Respondents

Shri Ashwin D. Bhobe, Advocate for the Applicants.
Shri Narayan Govekar, Advocate for the original
Appellants/Respondents.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 19th June, 2017

P.C.:

Shri N. Govekar, learned Advocate for the original appellants has no objection to the impleadment of the legal heirs of the deceased original claimants as parties to the proceedings. In view thereof, the application is partly allowed alongwith the impleadment of the legal heirs as necessary parties to the proceedings.

2. Heard Shri A. D. Bhobe, learned Advocate for the applicants on the point of the withdrawal of the amount awarded in favour of the original claimant, since deceased and Shri N. Govekar, learned Advocate for the original appellants. He has objected to the withdrawal of the amount on the premise that the proposed legal heirs are only entitled towards the loss of estate and not the

entire amount awarded in favour of the original claimant, who had expired pending the filing of the appeal.

3. There is no basis in the objection so raised on behalf of the appellant. Besides, the appellants have also not seriously disputed the withdrawal of the amount in case the said amount is restricted to 50% of the awarded amount and if the legal heirs are subjected to furnishing a Bank Guarantee or undertaking to secure the said amount in Court. Shri Bhobe, learned Advocate for the applicants submitted that he was willing to submit the written undertaking to secure the 50% of the amount withdrawn by the legal heirs, if so permitted by this Court.

4. In view thereof the application is allowed. The legal heirs are permitted to withdraw the amount to the extent of 50% of the awarded amount and on giving undertaking that they would indemnify the appellants in case they do not succeed in the appeal. The 25% out of the 50% of the amount would be withdrawn by the widow of the original claimant and the amount to the extent of 25% each of the 50% to the share of the minor claimants shall be invested in the Fixed Deposits till they attain their respective ages of maturity. In these terms, the application stands disposed off.

NUTAN D. SARDESSAI, J.

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