

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1652 OF 2018
IN
CIVIL APPLICATION NO. 12846 OF 2017
IN
FIRST APPEAL STAMP NO. 32906 OF 2017

Bhagwan s/o Munjaji Pawade and another ...Applicants

Versus

Manik s/o Dnyanoba Tompe & another ...Respondents

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Mrs. A. N. Ansari, Advocate for applicants

Mr. S. G. Chapalgaonkar, Advocate for respondents no. 2.

...

[CORAM: SUNIL P. DESHMUKH, J.]

Date: 6th April, 2018

ORDER :

1. Heard learned counsel for applicants and learned counsel for respondent-insurer.

2. Learned counsel for applicants Mrs. Ansari states that the applicants were original claimants before the Motor Accident Claims Tribunal, Parbhani in Motor Accident Claim Petition bearing no. 204 of 2013. She states that applicants-claimants have lost their earning son named Navnath Bhagwan Pawade in accident which

had taken place on 28th May, 2013. Since their bread-earner has been permanently lost, they are facing day-to-day difficulties to eke out their existence. She further states that Motor Accident Claims Tribunal has granted compensation of Rs. 5,42,000/- (Rs. Five lakh forty two thousand only) (including No Fault Liability amount) to the applicants-claimants with interest at the rate of 9% per annum from the date of petition. Even after the award has been passed, applicants-claimants have not received any amount of compensation. She states that applicants are in dire need of amount and, therefore, urges that they may be allowed to withdraw the amount of compensation deposited in this court.

3. Learned counsel Mr. Chapalgaonkar for respondent-insurer before this court, disputes the accident and questions the involvement of offending vehicle in the accident and states that the evidence on record would not establish that the accident occurred due to involvement of offending vehicle. He submits that the record had been manipulated and in the circumstances, decision rendered by the tribunal would not be sustainable.

4. The tribunal has held the insurer liable to bear the amount of compensation.

5. In the circumstances, while claimants' are stated to be suffering, it would be expedient to allow the applicants-claimants to withdraw half of the amount deposited in this court. In the circumstances, following order:

i) Applicants-claimants are allowed to withdraw 50% of the amount deposited in this court along with interest accrued thereon, on furnishing undertaking to the satisfaction of Registrar (Judicial) of this court to the effect that in the event, decision in the appeal being adverse to their interest, the amount being withdrawn by them would be paid back / deposited in this court within a period of three months from the date of decision in the appeal.

ii) Remaining 50% amount along with interest accrued thereon, be invested in fixed deposit of a nationalized bank.

6. Amount being withdrawn, shall be apportioned in the same proportion as appearing under the award passed by the tribunal.

7. Civil application is allowed in aforesaid terms and is disposed of.

[SUNIL P. DESHMUKH, J.]

vdk