drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY BENCH AT AURANGABAD

CIVIL APPLICATION NO.4313 OF 2018 IN FIRST APPEAL STAMP NO.24847 OF 2017

Mandakini Babasaheb Kalhapure and Others APPLICANTS

VERSUS

The Branch Manager, New India Assurance Company Limited and Others RESPONDENTS

....

Dr. S. D. Tawashikar h/f Mr. A. S. Pavse, Advocate for applicants
Mr. M. M. Ambhore, Advocate for respondent No.1

....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 28th MARCH, 2018

ORDER :

1. Heard learned advocates for the appearing parties.

2. The applicants were dependents of Babasaheb Kalhapure, who was the only earning hand in the family and had been employed in a co-operative sugar factory earning around Rs.8000/- per month. With his death due to accident in the year 2013, source of income and livelihood of the applicants has been permanently lost. Their claim petition had been granted to the extent of Rs.19,95,000/-. Entire amount along with accruals thereon has been deposited in this court by the appellant -

insurer. Family of the applicants is in dire need of the amount for day to day maintenance and livelihood as well as for educational purpose of minor applicants No.2 and 3.

3. Learned advocate for respondent insurer – appellant, purports to resist the application contending that the driver of the tractor, which had been articulated with a trailor had not been holding relevant and proper driving licence. He was holding a light motor vehicle driving licence and in the circumstances, appellant, who is the insurer of the offending vehicle, the tractor may not be liable to bear the responsibility of paying the compensation.

4. Although, learned advocate for the appellant – insurer has submitted so, it discernibly appears that there is no serious dispute about family requiring financial aid due to loss of earning source. As on the date the decision by the tribunal is in favour of the applicants and it cannot be said that they do not require any financial assistance. The accident had taken place in 2013 and in the circumstances, it would be expedient to allow the applicants to withdraw a sum of Rs.15,00,000/- along with the accruals thereon from the amount deposited by the appellant – insurer in this court.

5. As such, the applicants are allowed to withdraw Rs.15,00,000/- along with accruals thereon on furnishing an undertaking to the effect that in case decision in appeal goes against their interest, they would deposit the amount so withdrawn within three months from the date of such decision. An amount of Rs.15,00,000/- from withdrawn amount be invested in fixed deposits in any nationalized bank earning interest and the applicants shall furnish copies of fixed deposit receipts to this court. Amount of interest accrued on Rs.15,00,000/- so deposited, may be utilized by the applicants.

6. Civil application is allowed to aforesaid extent and is disposed of.

[SUNIL P. DESHMUKH, J.]

drp/ca4313-18