

VPH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL No. 533 OF 2018
WITH
CIVIL APPLICATION No. 2478 OF 2018
WITH
CIVIL APPLICATION No. 870 OF 2018

Oriental Insurance Co. Ltd. ... Appellant
Vs.
Smt. Puja Pravin Sheth & Ors. ... Respondents

Mrs. S. S. Dwivedi, for the Appellant and for Applicant CAF. 870/2018, and for Respondent No. 2478/2018.

Mr. Nitesh V. Bhutekar, for the Respondent Nos. 1 to 4 in FA. 533/2018, CAF. 870/2017 and for Applicant in CAF. 2478/2018.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 18, 2018

PC :-

FIRST APPEAL No. 533 OF 2018

1. Heard the learned counsel for the Appellant. **Admit.**
Learned counsel Mr. Nitesh V. Bhutekar waives service of notice for the original claimants / Respondent Nos. 1 to 4. Call for

record and proceedings.

CIVIL APPLICATION No. 2478 OF 2018

2. This is an application filed by the original claimants, for withdrawal of the amount of compensation deposited by the insurance company before the court below. The learned court below vide impugned judgment and award dated 7.7.2017 passed by the learned Motor Accident Claims Tribunal, Manegaon-Raigad in MACT Application No. 120 of 2014 directed the insurance company and another respondent therein to pay Rs. 1,18,67,700/-to the claimants including the amount of “no fault liability”, alongwith interest @ 10% p.a. from the date of application till realization of the amount. Applicant No. 1 is widow, Applicant Nos. 2 and 3 are daughters and they are taking education in medical stream, viz. Bachelor Dental Surgery and M.B.B.S. and Applicant No. 4, aged 74 years is mother of deceased.

3. The learned counsel for the insurance company submits that the insurance company has already deposited the

entire amount of compensation, in the court below.

4. After hearing the learned counsel for the Applicants / original claimants and the learned counsel for the insurance company, and looking to the fact that daughters are pursuing their education in medical stream and after perusing the documents in the nature of receipts of college fee, I pass the following order:

- (i) The Applicants / original claimants are entitled to withdraw 50% of the amount deposited by the insurance company in the lower Court alongwith the interest, in the same proportion, as directed by the Court below.
- (ii) Office is directed to transfer statutory deposit to the learned court below.
- (iii) The remaining 50% of the amount alongwith the statutory deposit shall be invested by the court below in any nationalised bank, initially for a period of 3 years and renew the same as and when occasion

arises.

- (iv) Applicants are entitled to move the application for further withdrawal to this Court after two years if they are able to demonstrate the hard pressing necessity for the same.
- (v) Civil Application No. 2478 of 2018 is accordingly partly allowed and disposed of in the aforesaid terms.

CIVIL APPLICATION No. 870 OF 2018

5. This is an application filed by the insurance company for stay to the impugned judgment and award of the learned Tribunal. Heard the learned counsel for the insurance company and the original claimants. Today, this Court has admitted the appeal filed on behalf of the insurance company, as also allowed the original claimants to withdraw 50% of the compensation deposited by the insurance company, as indicated in the order. In that view of the matter, pending the hearing and disposal of the appeal, there shall be stay in respect of 50% compensation awarded vide impugned judgment and award dated 7.7.2017

passed in MACP No. 120 of 2014 by the learned Tribunal at Manegaon-Raigad, which the trial court will be investing in any nationalised bank.

6. Civil Application No. 870 of 2018 is disposed of in the aforesaid terms.

Sd/-
[V. M. DESHPANDE, J.]

Vinayak Halemath