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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 2389 OF 2014
IN
FIRST APPEAL (St.) No. 1849 OF 2014
WITH
CIVIL APPLICATION No. 2409 OF 2014
WITH
CIVIL APPLICATION No. 2471 OF 2018

Shriram General Insurance Co. Ltd. ... Appellant
Vs.
Smt. Saroj S. Prajapati & Anr. ... Respondents

Mr. Milind M. Sathaye, for the Appellant, for the Applicant in CAF. 2389/2014, CAF. 2409/2014 and for Respondent in CAF. 2471/2018.

Mr. Sanskar Marathe, for the Applicant in CAF. 2471/2018, and for the Respondent / original claimants in CAF. 2389/2014, CAF. 2409/2014 and FAST. 1849/2014.

Mr. N. D. Deboo, for Respondent Nos. 5 and 6.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 18, 2018

PC :-

CIVIL APPLICATION No. 2389 OF 2014

1. This is an application filed by the insurance company for condonation of delay caused in lodging the first appeal,

challenging judgment and award dated 12.4.2013 passed by the learned Member, Motor Accident Claims Tribunal, Dadra & Nagar Haveli, Silvassa in MACP No. 32 of 2012. Heard the learned counsel appearing for the respective parties. Since, the learned counsel for the original claimants has no objection, and for the reasons stated in the application, delay is condoned. Application is accordingly allowed and disposed of in terms of prayer clause (a). Office to register the appeal after removal of office objections by the Appellant.

FIRST APPEAL (St.) No. 1849 OF 2014

2. Heard the learned counsel for the Appellant. **Admit.** Learned counsel Mr. Sanskar Marathe waives service of notice for the original claimants. Learned counsel Mr. N. D. Deboo waives notice for Respondent Nos. 5 and 6. Call for record and proceedings.

CIVIL APPLICATION No. 2471 OF 2018

3. 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 has vide impugned judgment and award dated 12.4.2013 passed in MACP No. 32 of 2012 directed the insurance company and other opponents therein to pay Rs. 14,87,600/-to the claimants and opponent Nos. 4 and 5 therein with interest @ 7.5% p.a. from the date of petition till its realisation. It is not in dispute that the insurance company has deposited entire amount of compensation, in the court below. The Applicants herein are the widow, daughter and parents of the deceased. Operative part Clause (iii) of the impugned judgment reads as under:

“(iii) On realisation of the amount same be paid to the claimants No. 1 and 2 and opponent No. 4 and 5 in the ratio of 40 : 40 : 10 : 10.”

4. Applicants herein are considered favourably, however in part. After hearing the learned counsel for the Applicants / claimants and the learned counsel for the insurance company, in the interest of justice, I pass the following order:

(i) The Applicants herein / claimants are entitled to

withdraw 50% of the amount deposited by the insurance company in the lower Court, in the ratio determined by the court below. The amount on behalf of the minor applicant (Applicant No. 2) will be received by her mother (Applicant No. 1).

- (ii) The remaining 50% of the amount 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.
- (iii) Civil Application No. 2471 of 2018 is accordingly partly allowed and disposed of in the aforesaid terms.

CIVIL APPLICATION No. 2409 OF 2014

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 and the learned counsel appearing for the offending vehicle. Looking to the question involved in the appeal, 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 12.4.2013 passed in MACP No. 32 of 2012 by the learned Member, Motor Accident Claims Tribunal at Dadra and Nagar Haveli at Silvassa, which the trial court will be investing in any nationalised bank.

6. Civil Application No. 2409 of 2014 is disposed of in the aforesaid terms.

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

Vinayak Halemath