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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL No. 242 OF 2017
WITH
CIVIL APPLICATION No. 1735 OF 2016
WITH
CIVIL APPLICATION No. 2196 OF 2017

Bajaj Allianz General Insurance Co. Ltd. ... Applicant
Vs.
Shaju Seelan & Ors. ... Respondents

Mr. M. M. Sathaye a/w Ms. Yogita Deshmukh, for the Appellant
and for Applicant in CAF. 1735/2016 & for Respondent in CAF.
2196/2017.

Mr. Sanjiv A. Sawant a/w Ms. Saloni, for the Applicant in CAF.
2196/2017 & for Respondent Nos. 1 & 2 in FA. 242/2017 &
CAF. 1735/2016.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 4, 2018

PC :-

FIRST APPEAL No. 242 OF 2017

1. Heard the learned counsel for the Appellant and the
learned counsel for the original claimants. **Admit.** Call records
and proceedings. Learned counsel Mr. Sanjiv Sawant waives
notice for the original claimants.

CIVIL APPLICATION No. 2196 OF 2017

2. This is an application for withdrawal of the amount by the original claimants. Applicant No. 1 is the husband and Applicant No. 2 is the minor son of the deceased, who lost her life in the accident. The learned trial court held that the claimants are entitled to receive Rs.7,26,000/- inclusive of compensation of no fault liability under S. 140 of the Motor Vehicles Act, alongwith interest @ 8% p.a.

3. This is second application for withdrawal of the amount. Learned counsel for the claimants has filed a copy of order passed in the earlier application (Civil Application No. 4090 of 2016) for withdrawal, by which Applicant No. 1 was permitted to withdraw an amount of Rs. 1,00,000/- which was allotted to his share, and Rs.2,00,000/- which was allotted to the share of minor Applicant No. 2.

4. According to the learned counsel for the Applicants, the claimants are required to move this application for further withdrawal after passing of this order dated 19.9.2016. Applicant No. 2, though he is a minor, has passed S.S.C.

examination and to pursue further study, he requires further amount.

5. Looking to the fact that Applicant No. 2 has passed S.S.C. examination, in my view, for obtaining admission in further class till 12th standard, expenses of Rs.75,000/- will be the appropriate amount. Hence, I pass following order:

- (i) Applicants will be entitled to withdraw Rs.75,000/- out of the deposit of compensation on their giving undertaking that in the event insurance company succeeds in the appeal, they will refund the amount together with interest that may be determined at that time in the appeal.
- (ii) It is made clear that father (Applicant No. 1) shall utilise this amount only for educational purposes of Applicant No. 2 – Mst. Amish Seelan.
- (iii) Applicant No. 2 will be entitled to move an application for further withdrawal after 2 years, if he is able to demonstrate his hard pressing necessity for the same to this Court.

- (iv) Remaining amount shall be invested in any nationalised bank, initially for a period of 2 years and continue to renew as and when occasion arises.
- (v) Civil Application No. 2196 of 2017 is allowed in the aforesaid terms.

CIVIL APPLICATION No. 1735 OF 2016

6. This is an application for stay to the impugned judgment and award dated 16.6.2014 passed in MACP No. 331 of 2006. Appeal is already admitted by this Court today. Not only that, today the application for withdrawal is also allowed, as indicated in the order. The insurance company has already deposited the entire amount in the lower court. In that view of the matter, ad-interim relief granted in favour of the insurance company on 21st July, 2016 is made absolute. Civil Application is accordingly disposed of in terms of prayer clause (a).

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

Vinayak Halemath