

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 93 OF 2015
IN
FIRST APPEAL NO. 936 OF 2007

Sou. Sunanda Bhausahab Magar & Anr. .. Applicants
Vs.
The Oriental Insurance Co. Ltd. & Anr. .. Respondents

Mr. Tukaram Shendge I/b Mr. A.D. Sale for the Applicants.
Ms. Ruchika Dave I/b Mr. S.M. Vidyarthi for Respondents.

CORAM : K.K. SONAWANE, J.

DATE : 7th August, 2018.

P.C. :-

1. Heard the learned Counsel for the applicants-original claimants and the learned Counsel for the respondents-Insurance Company. The learned Counsel for the applicants submits that, this Court (CORAM : A.P. BHANGALE, J) under order dated 4th October, 2013 granted permission for withdrawal of the amount subject to furnish the security to the satisfaction of the Tribunal. The applicants are the parents of the deceased and it would be difficult for them to furnish the security. They tried to get manage for furnishing security to withdraw the amount. But all their efforts did not evoke the result. Eventually, the applicants preferred the present application seeking modification of the earlier order passed by this Court dated 4th October, 2013. It is not put into controversy, that the appellant-

Insurance Company has deposited the total sum of Rs.5,15,342/- along with interest before the M.A.C.T., Sangli in M.A.C.P. No. 17 of 2004. The appellant-Insurance Company raised an objection in regard to the quantum of compensation amount and the income of the deceased calculated by the learned Tribunal for determination of compensation amount. According to the learned Counsel for the respondent-Insurance Company, the reasonable amount be allowed to be withdrawn to protect the interest of the applicants.

2. In view of submissions, I do not find any impediment to get modified the earlier order passed by this Court and allow the appellants-parents of the deceased to withdraw at least Rs.3.5 lakhs deposited before the Tribunal by the respondent-Insurance Company on certain terms and conditions instead of furnishing security. Definitely, it would subserve the purpose in the interest of justice. Accordingly, the application stands allowed. The earlier order passed by this Court dated 4th October, 2013 is hereby modified. The applicants-Original claimants are permitted to withdraw Rs. 3.5 lakhs, towards compensation amount deposited by the appellant-Insurance Company before the M.A.C.T., Sangli in M.A.C.P. No. 17 of 2004 subject to condition that the applicants shall furnish an undertaking that they would refund the entire amount so withdrawn forthwith, in case any

contingency arises in the appeal. The rest of the balance amount of compensation deposited before the M.A.C.T., Sangli be invested in FDR account in any Nationalized Bank for a period of two years or till decision of the appeal whichever is earlier with liberty to renew the FDR in future if required.

3. In view of the above, the application stands disposed off. The M.A.C.T., Sangli to take requisite steps for disbursement of the amount in favour of the applicants as directed above and forward the report of compliance to this Court.

(K.K. SONAWANE, J.)