

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

FIRST APPEAL NO.824 OF 2018

National Insurance Company Limited, Division Office Amravati, Taluka and District
Amravati

..VS..

Bhuta Gondu Dhurve and ors

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

.....
Shri A.M. Kukday, Counsel for the appellant.

Shri G.R. Agrawal, Counsel for respondent Nos.1 to 5/claimants.

CORAM : V.M. DESHPANDE, J.

DATED : AUGUST 24, 2018.

1. Heard learned counsel Shri A.M. Kukday for the appellant.

2. ADMIT.

3. The record and proceedings be called for.

4. Learned counsel Shri G.R. Agrawal waives service on behalf of respondent Nos.1 to 5/claimants.

Civil Application (CAO) No.1309/2018

1. This is an application filed on behalf of respondent Nos.1 to 5/claimants for permission to withdraw amount deposited by the appellant-Insurance Company in this Court.

2. Heard learned counsel Shri G.R. Agrawal for respondent Nos.1 to 5/claimants and learned counsel Shri A.M. Kukday for the appellant-Insurance Company.

3. The Insurance Company filed the appeal challenging judgment and award dated 15.12.2016 passed by learned Member, MACT, Achalpur in MACP No.96/2010.

4. Today, the present appeal is admitted.

5. On 14.8.2017, while issuing Notices on application for condonation of delay in preferring the appeal and on application for grant of Stay, the appellant/Insurance Company was directed to deposit entire decretal amount in this Court and subject to that the impugned judgment and award was ordered to be Stayed.

6. In pursuance to the said directions, the appellant-Insurance Company deposited amount of Rs.17,64,921/- before this Court.

7. Learned counsel Shri G.R. Agrawal for respondent Nos.1 to 5/claimants submitted that the claimants be permitted to withdraw the said amount in view of fact that deceased Ramiya, wife of respondent No.1 and mother of respondent Nos.2 to 5, was working and helping the family of the deceased.

8. From the cause title and also from the hearing of learned counsel for respondent Nos.1 to 5/claimants it is clear that claimant Nos.2 to 5 are minors and their entire life is ahead of them. Therefore, presently, I do not wish to exercise the discretion in favour of the claimants permitting them to withdraw the entire amount. However, at the same time, the interest of justice can be met with by passing following order:

ORDER

i) The civil application is partly allowed.

ii) Respondent Nos.1 to 5/claimants will be permitted to withdraw

25% of Rs.17,64,921/- along with interest accrued thereon.

iii) The Registrar (J.) of this Court is hereby directed to invest the remaining 75% amount with any Nationalized Bank initially for a period of 3 years and shall continue to do the said exercise as when occasion arises.

iv) Respondent Nos.1 to 5/claimants shall be entitled to withdraw the interest accrued on the said invested amount twice in a year.

v) It will be open for respondent Nos.1 to 5/claimants to move further application for withdrawal of the further amount, if they could satisfy their need to that extent.

vi) With this, the civil application stands allowed and disposed of.

Civil Application (CAF) No.3407/2017

1. This is an application under Order XLI Rule 5 of the Code of Civil Procedure for grant of Stay.

2. The appellant/Insurance Company has filed the appeal challenging judgment and award dated 15.12.2016 passed by learned Member, MACT, Achalpur in MACP No.96/2010. In view of the directions given by this Court on 14.8.2017, the appellant/Insurance Company already deposited the entire decretal amount. Today, this Court has allowed Civil Application (CAO) No.1309/2018 filed on behalf of respondent Nos.1 to 5/claimants for withdrawal of the amount.

3. In view of the above, the present application is allowed. There shall be Stay to the effect and execution of the judgment and award dated 15.12.2016 passed by learned Member, MACT, Achalpur in MACP No.96/2010 to the extent of 75% amount

deposited before this Court.

4. The civil application stands allowed and disposed of accordingly.

JUDGE

!! BRW !!