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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION STAMP NO.5349 OF 2019
IN
FIRST APPEAL NO.1276 OF 2006

The Oriental Insurance Company Limited

APPLICANT

VERSUS

Chandrakant Shankarrao Joshi and Others

RESPONDENTS

.....

Mr. R. F. Totla, Advocate for the applicant

Mr. Ajay S. Deshpande, Advocate for respondents

.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 12th APRIL, 2019

ORDER :

1. Heard learned advocates for the appearing parties finally by consent.
2. Review has been sought having regard to contents of paragraphs No. 22 and 28 of the judgment and order dated 15th March, 2018 passed by this court in first appeal No. 1276 of 2006. Paragraphs No. 22 and 28 of said judgment and order read thus-

“ 22. Further, it would also be relevant to refer to that in the case of *Sarla Verma V/s Delhi Transport Corporation and Another* (2009) 6 SCC 121 the supreme court has in paragraphs no. 30 and 31 referred to the considerations

which may weigh in respect of deductions towards personal and living expenses of deceased.

28. Computation of income of deceased Aniket and multiplier to be applied, and compensation on non pecuniary heads, in the circumstances, shall have to be worked out with reference to aforesaid decisions, namely, “National Insurance Company” and “Sarla Verma” (supra)”

3. According to learned advocate for the applicant, since there is no specific incorporation of deductions referable to aforesaid paragraph No. 22, it would give rise to a diffused situation. He, however, on instructions states that the amount is deposited in this court calculating the same as referred to in paragraph No. 31 of the judgment in the case of *“Sarla Verma V/s Delhi Transport Corporation and Another” (2009) 6 SCC 121*.

4. Learned advocate for the respondents does not dispute the deductions as referred to in paragraph No. 31 in *Sarla Varma's* case (supra) but contends that the dispute is with regard to calculation of amount and award amount would undergo alteration on higher side.

5. However, since the amount has already been deposited pursuant to paragraph No. 31 of the judgment in the case of *“Sarla Warma” (supra)* and that the advocate for the respondent - claimants states that the claimants would not insist for

execution which is pending before executing court and would withdraw said proceedings, in case claimants are allowed to withdraw the amount deposited by the appellant with statutory amount, along with accruals thereon.

6. Having regard to the fact that learned advocates for the parties, on instructions, accept aforesaid propositions, review application is disposed of letting withdrawal by claimants of amount deposited by the appellant as referred to above along with Rs.25,000/- towards statutory deposit forming part of the award amount granted with accruals thereon, equally. Civil application No. 4410 of 2019 filed on behalf of claimants seeking withdrawal stands granted in terms of above. Claimants accordingly would withdraw execution proceedings.

7. In view of the fact that review application has been disposed of, civil application seeking stay bearing No. 3084 of 2019 does not survive and is disposed of.

[SUNIL P. DESHMUKH]
JUDGE

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