IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1411 OF 2019
IN
FIRST APPEAL NO. 968 OF 2016

Rajakka Ganpati Bhoite & Anr. ..Applicants

In the matter between

Bajaj Allianz General Insurance Co. Ltd. ..Appellants

v/s.

Rajakka Ganpati Bhoite & Anr. ..Respondents

Mr. D.S.Joshi a/w. Ms. Aadity Athawale i/b. Mr. Milind Sathaye for the Appellant in FA/968/2014 and for the respondent in CAF/1411/2019.
Mr. Yuvraj P. Narvenkar for the Respondent Nos.1 and 2 in FA/968/2016 and for the applicant in CAF/1411/2019.
Mr. Gaurav Nankar i/b. Manoj Patil for the Respondent Nos.3 and 4.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 17th OCTOBER, 2019.

P.C.

1. The learned Counsel for the applicants who are the original claimants have sought withdrawal of compensation deposited by the Appellant Insurance Company, pursuant to the judgment and award dated 10th July, 2013 passed by the MACT, Sangli, in MACP

No. 118 of 2010. By the impugned judgment, the Claims Tribunal has awarded compensation of Rs.1,98,000/- with interest @ 6% p.a. from the date of filing of the petition till realization.

2. The applicant no.1 is the mother and the applicant no.2 is the sister of the deceased. The deceased-Bajrang, who was 22 years of age had expired as a result of the injuries sustained in a motor vehicular accident. The father of the deceased, who was also one of the claimant has expired during pendency of the claim petition. It is stated that the applicants were solely dependent on the income of the deceased. Since they have no other sources of income, and they are facing financial crisis, they are in need of money to meet their day to day expenses, including medical expenses.

3. The learned Counsel for the appellant insurance company has resisted the application mainly on the ground that there was no coverage and also on the ground of breach of terms and conditions.

4. I have perused the record and considered the submissions advanced by the learned Counsel for the respective parties.

5. The Tribunal has recorded a finding that the appellant insurance company had insured the vehicle and that the policy covers the risk of owner driver as well as one employee. The Tribunal has already recorded a finding that the deceased was an employee working on tractor trolly and hence covered under the policy. The records prima facie indicate that there was coverage. Even otherwise, the issues raised by the appellant will have to be considered on merits and at this stage, the applicants who are the victims of the accident cannot be deprived of compensation.

6. Considering the reasons stated in the application and the grounds raised in the appeal memo, 50% of the compensation along with proportionate interest accrued thereon is ordered to be paid to the applicants. Suffice it to say that the withdrawal is subject to final outcome of the appeal.

7. The applicants shall furnish an undertaking before the

tribunal that they will abide by the final orders that may be passed in this appeal.

8. The MACT, to re-invest the balance amount in the names of the respective applicants, in any nationalized bank after making the payment as stated above.

9. Statutory deposit be transferred to the Tribunal, if not already transferred.

10. Civil application stands disposed of.

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11. Having heard the learned Counsel for the respective parties, in my considered view, arguable points are raised. Hence admit.

12. The learned Counsel for the respondent waives service. The appellant to file private paper book within one year from today with copy to the other side.

13. Printing dispensed with.

14. Registry to call for the record and proceedings.

(ANUJA PRABHUDESSAI, J.)