

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 2026 OF 2019
IN
FIRST APPEAL (ST) No. 4629 OF 2019

Reliance General Insurance Co. Ltd. ...Applicant

Vs.

Shri Harishchandra Ramchandra Langi
and Ors.

...Respondents

Mrs. Shalini Shankar for Applicant

CORAM: K.K. TATED, J.

DATED : JUNE 19, 2019

P.C. :

1. Heard learned counsel Mrs. Shalini Shankar for the Applicant.
2. By this civil application, the Applicant Insurance Company is seeking stay of the operation and implementation of the judgment and award dated 5th July, 2018 passed by the Motor Accident Claim Tribunal, Raigad at Alibag in MACP No. 54 of 2010 holding that the Respondents/ Original Claimants are entitled sum of Rs. 7,44,000/- by way of compensation with interest @ 7.5% p.a.
3. Learned counsel for the Applicant submits that they filed the first appeal challenging the impugned judgment and award on the ground of breach of terms and conditions of the insurance policy and therefore, the Insurance Company is not liable to pay compensation. She further submits that Claimant No.1 Harishchandra Ramchandra Langi is the father of the deceased. She submits that father cannot be claimed any

compensation. She submits that these facts were not considered by the tribunal at the time of passing the impugned judgment and award.

4. The learned counsel for the Applicant submits that they have good chance of success in the present proceeding. She submits that if the entire amount is recovered by the Claimants by filing execution application, then nothing will survive in the present First Appeal. She submits that in the interest of justice, during the pendency of the First Appeal, this Hon'ble Court, be pleased to grant stay to the operation and implementation of the judgment and award. She submits that she received instructions from the Applicant that they are ready and willing to deposit the entire awarded amount within three weeks from today in the Trial Court.

5. It is to be noted that in the present proceedings, in an accident which occurred on 14th February, 2009, the Original Claimant lost his son Nilesh Harishchandra Langi, who was 29 years' old at that time. He was working as a Electrician and was earning Rs.8,000/- p.m. Because of the said accident and lost of son, the Original Claimant has filed claim petition under section 166 of the Motor Vehicles Act claiming compensation from the owner as well as from the Insurance Company. The Tribunal after considering the evidence on record, held that the Claimants are entitled sum of Rs.7,84,000/- by way of compensation with interest @ 7.5% p.a.

6. Both the claimants are senior citizens. Considering this fact, I am of the opinion that the Respondents can be permitted to withdraw some amount along with accrued interest, but that will be subject to outcome of the First Appeal.

7. Considering the submissions made by the learned counsel for the Applicant, the averments made in the civil application and as the Applicant is ready and willing to deposit the entire awarded amount of compensation in the Trial Court within three weeks from today, I am satisfied that the Applicant has made out a case for allowing this civil application.

8. Hence, following order:

- (a) Civil Application is allowed in terms of prayer clause (a), on a condition that the Applicant -Insurance Company to deposit the entire awarded amount in tribunal on or before 29th July, 2019, failing which civil application shall stand dismissed without referring back to the Court, prayer clause (a) which reads thus:
“(a) Pending the hearing and final disposal of the present first Appeal, this Hon'ble Court be pleased to stay the effect, implementation and or execution of the impugned Judgment and order dated 05/07/2018 passed by the Hon'ble Court of Member, in Motor Accident Claim Petition No. 56 of 2010.”
- (b) If amount is deposited within stipulated time as stated hereinabove, Claimant No.1 Harishchandra Langi is entitled to withdraw 10% amount of compensation with interest accrued thereon and Claimant No. 2 Sou. Samita Harishchandra Langi is entitled to get 20% of total compensation with accrued interest, without furnishing any security, but subject to outcome of the First Appeal.
- (c) Tribunal is directed to invest the remaining amount in fixed deposit of any Nationalized Bank, initially for a period of one year

and same to be continued till further orders.

- (d) Liberty is granted to the Respondents/ Original Claimants, if they desire so, to prefer appropriate application for withdrawal of further awarded amount and that application be decided on its own merits.
- (e) Civil Application stands disposed of accordingly.
- (f) No order as to costs.

(K. K. TATED, J.)