IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.200 OF 2019
IN
FIRST APPEAL ST. NO. 31222/2017

Shivaji Dhondiram Ghorpade & Ors. ..... Applicants.

Vs.

New India Assurance Co. Ltd. & Ors. ..... Respondents

Mr. V. R. Gaikwad for the Applicants.
Mr. A. K. Sharma i/b. Gandhi & Associate for Respondents.

CORAM : K.K.TATED, J.
DATED : JUNE 20, 2019

P.C.

1 Heard learned counsel for the parties.

2. By this Civil Application, the Applicants/Original Claimants are seeking permission to withdraw the amount deposited by the insurance company to satisfy the judgment and award dated 22nd March, 2017 passed by the Motor Accident Claims Tribunal, Satara in Motor Accident Claim Petition No. 358 of 2014.

3. The learned counsel for the Applicants submits that in accident which occurred on 10th June, 2014, Applicant No.1 and 2 lost their son namely Vivek who was 22 years old. At that time, he had completed Diploma in Mechanical Engineering. He was trying to get admission in

Engineering College. Therefore, they have filed claim petition under Section 166 of the Motor Vehicle Act claiming the compensation of Rs. 24,00,000/- with interest. He submits that the Tribunal after considering evidence on record held that Claimants are entitled to sum of Rs. 14,95,000/- with interest @ 7% p.a.

4. The learned counsel for the Applicants submits that though the accident occurred in 2014, till today they have not received the compensation hence, they filed present Civil Application for withdrawal of the amount. He submits that the Applicants/Original Claimants by profession are agriculturist, hence, they required the said amount for continuing their profession as agriculturist. He submits that if Civil Application is not allowed, irreparable loss will cause to them.

5. On the other hand, the learned counsel for the insurance company vehemently opposed the present Civil Application. He submits that there was breach of terms and conditions of insurance policy and therefore, the insurance company is not liable to pay the compensation. He submits that these facts were not considered by the Tribunal at the time of awarding the compensation. He submits that they have good chance of success in the present First Appeal. He further submits that if the entire amount is withdrawn by the Claimants then nothing will survive in the present First Appeal. Therefore, there is

no question of permitting the Applicants to withdraw the said amount during the pendency of the First Appeal.

6. It is to be noted that in the present proceeding the Claimant No. 1 and 2 lost their young son aged about 22 years old. He had completed Diploma in Mechanical Engineering and he was trying to get admission in the Engineering College. The Applicants are agriculturist and they required the said amount for their agricultural purpose.

7. Considering these facts, I am of the opinion that, the Claimants can be permitted to withdraw the some amount without furnishing any security but subject to outcome of the First Appeal.

8. Hence, the following order is passed.

a. Claimant No. 1 and 2 i.e. Shivraj Dhondiram Ghorpade and Sunita Shivaji Ghorpade are entitled to withdraw the sum of Rs. 1,00,000/- each with interest without furnishing any security but subject to outcome of the First Appeal.

b. Claimant No.3 Vaibhav Shivraj Ghorpade is entitled to withdraw the sum of Rs. 50,000/- with accrued interest without furnishing any security but subject to outcome of the First Appeal.

c. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.

d. The Civil Application is disposed of accordingly.

e. No order as to costs.

(K.K.TATED, J.)