

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 93 OF 2018
WITH
CIVIL APPLICATION NO. 297 OF 2017

Dr.D.Y.patil Medical Collage, Kolhapur, .. Appellants
Vs.
Dr.Sau Chitra Chandrashekhar Khanwilkar .. Respondent

Mr.Shrishailya S.Deshmukh, for the Appellants.
Mr.S.D.Deshmukh I/b Mr.S.D.Rayrikar, for the Respondent.

CORAM : M.S.KARNIK, J.

DATE : 19th JULY, 2019

P.C. :

. The matter was heard on the last occasion for some time. The parties sought time to negotiate the settlement. Learned Counsel for the appellants stated that they would abide by the judgment and decree of the trial Court dated 09/03/2012 if the amount of interest is reduced from 12% to 9% . Learned Counsel for respondent – original plaintiff on instructions states that the respondent is agreeable to decree being modified to the

extent that instead of 12% interest in the operative part of the judgment and decree the same is taken as 9% interest.

2. In this view of the matter, the decree of the trial Court is modified by consent to mean that in clause 2 of the operative part of the order dated 09/03/2012 of the trial Court instead of 12% interest, the same be read as 9% interest.

3. There is some controversy over the leave encashment amount that is payable to the respondent. According to the learned Counsel for the respondent as per rules, respondent is entitled to leave encashment of Rs.2,16,000/-. Learned Counsel for the appellants opposed this demand of the respondent. In his submission, if such an encashment is granted to the respondent, then similar claims would be made by the other teachers. He would submit that there is no provision in the rules for granting leave encashment as demanded by the respondent. I had therefore suggested that with a view to put an end to the matter, the respondent be paid an exgratia amount of

Rs.2,00,000/-. Learned Counsel for the appellants in all fairness stated that insofar as this aspect is concerned, he will abide by the suggestion of this Court. In the interest of justice, therefore, the appellants to pay a sum of Rs.2,00,000/- to the respondent as exgratia amount which even the respondent's Counsel acceded. The claim be computed on the basis of ex-gratia amount of Rs.2,00,000/- payable to the respondent. In this view of the matter, the ex-gratia amount of Rs.2,16,000/- be excluded from the claim amount payable.

4. Needless to mention that from the decretal amount to which the respondent is entitled to, if some payment have already been paid to the respondent, the same shall obviously be deducted while making the final payment.

5. The Appeal is disposed of in the above terms. List the matter on 26/07/2019 for directions to consider the manner in which the amount deposited in this Court by the appellants is to be dealt with. In view of disposal of the Appeal, Civil

Application does not survive and the same shall stand disposed of.

(M.S.KARNIK, J.)