IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
CIVIL APPLICATION NO.1174 OF 2019
in
FIRST APPEAL (St) NO.36399 of 2018

United India Insurance Co Ltd .. Applicant
vs
Govind Pandurang Vaidya & ors .. Respondents

Mr.Rahul Mehta I.b KMC Legal Venture for Applicant

CORAM : K.K.TATED, J
DATE : 25th MARCH, 2019

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At the request of the learned advocate for the appellant matter is taken on production Board.

2. Heard learned counsel for the parties.

3. Learned counsel for the applicant submits that the respondent-claimant has filed execution application in which attachment warrant is issued. He submits that the next date in the matter is 1.4.2019. Hence, there is an urgency.

4. Learned counsel for the applicant submits that by this Civil Application, they are seeking stay of the operation and implementation of the impugned Judgment and Award dated

1.9.2018 passed by the MACT, Thane in MACT Application No.729 of 2014 holding that the respondent/original claimant is entitled to Rs.50,75,320/- with 7.5 % interest p.a. She submits that the trial Court has also held that the insurance company is liable to pay Rs.25,37,660/- to the claimant with interest out of the total compensation.

5. Learned counsel for the applicant submits that if the entire amount is recovered by the respondent-claimant in execution application then nothing survives in the present appeal. He submits that he has received instructions from his clients that they are ready and willing to deposit the entire amount as per clause (4) of the operative part of the award dated 1.9.2018 in the tribunal within a period of four weeks from today.

6. In the present proceedings, the respondent/original claimant has lost their daughter Ms.Bhakti on 8.10.2017. Considering these facts, and reasons given by the tribunal, I am of the opinion that the respondent/original claimant can withdraw some amount during the pendency of the present first appeal. Hence, the following order :

<u>O R D E R</u>

i) The operation and implementation of the impugned judgment and award passed by the tribunal stands stayed against the appellant-insurance company on the condition that they have to deposit their share of Rs.25,37,660/- with interest in the tribunal on or before 23.4.2019 failing which the Civil Application shall stand dismissed without referring back to the Court.

(ii) If the amount is deposited within the stipulated time, the respondent/claimants Govind Vaidya and Manjiri Vaidya are entitled to withdraw 25% each without furnishing any security subject, to the outcome of the First Appeal.

(iii) The tribunal is directed to invest the remaining amount in any nationalised bank initially for a period of one year and to be continued till further orders.

(iv) Liberty is granted to the respondent/claimants if they so desire to prefer an application for withdrawal of the remaining amount and that will be decided on its own merits.

(v) Civil application stands disposed of accordingly.

(vi) No order as to costs.

{K.K.TATED, J}