IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.4820/2020
IN CIVIL APPLICATION NO.1847/2020
IN FIRST APPEAL (ST.) NO.514/2020

THE NEW INDIA ASSURANCE CO.LTD. THROUGH ITS AUTHORIZED SIGNATORY, AURANGABAD
VERSUS
SUDAM ANKUSH SHINDE & OTHERS.
…..
Shri M.M. Ambhore, Advocate for applicant.
…..

CORAM: V.L. ACHLIYA, J.

DATE: 14.08.2020

PER COURT :

1] The applicant – appellant has moved this application seeking modification of order dated 14.2.2020 for the reasons set out in detail in the application.

2] Heard learned counsel for the applicant. Perused the order dated 14.2.2020 passed in Civil Application No.1847/2020.

3] In brief, it is the contention of learned counsel for the applicant – appellant that the appeal preferred by the appellant raises challenge to making the appellant liable to pay compensation to the extent of 50%. It is submitted that the liability to pay compensation has been apportioned to the extent of 50% as against opponent nos.1 & 2 and balance 50% was to be paid by opponent nos.3 & 4. The applicant – appellant has deposited the amount in this Court in terms of the award i.e. to the extent of 50% as determined by the Tribunal. Due to inadvertence, it remained to be brought to the notice of the Court that the stay was claimed only to the extent of 50% of the amount awarded by the Tribunal as against the applicant / appellant insurance company.

4] The order passed by the Tribunal reads as under:

> " i) Petition is partly allowed with proportionate cost.
>
> ii) The opponents No. 1 to 4 are jointly and severally liable to pay compensation amount of Rs. 12,72,500/- (Rs. Twelve lakhs seventy two thousand five hundred only) with interest @ 7% p.a. from the date of the petition till realization of the entire amount, to the petitioners.
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> iii) Opponents no. 1 and 2 are liable to pay to the extent of 50% with interest @ 7% and opponent no.3 and 4 also liable to pay to the extent of 50% with interest @ 7% of compensation of Rs. 12,72,500/- to the petitioners.
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> iv) On depositing the amount with this Tribunal, the Superintendent, Cash and Finance is hereby directed to invest an amount of Rs. 2,25,000/- (Rs. Two lakh twenty five thousand only) each along with accrued interest on entire amount in the name of petitioners No.2 to 5 in any Nationalized Bank of their choice till they attain majority.
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> v) Out of compensation amount, the Superintendent, Cash and Finance is hereby directed to pay remaining compensation amount Rs. 3,72,500/- (Rs. Three lakh seventy two thousand five hundred only.) to petitioner no. 1 by account payee cheque.
>
> vi) Award be drawn-up accordingly after payment of deficit court fee, if any."

v) Out of compensation amount, the Superintendent, Cash and Finance is hereby directed to pay remaining compensation amount Rs. 3,72,500/- (Rs. Three lakh seventy two thousand five hundred only.) to petitioner no. 1 by account payee cheque.

vi) Award be drawn-up accordingly after payment of deficit court fee, if any.“

5] It is apparent from the order passed by the Tribunal that the liability of the applicant – appellant is restricted to 50% in terms of the award.

6] On due consideration of the submissions advanced and further considering the order passed by the Tribunal, I am of the view that the application seeking modification of order dated 14.2.2020 deserves to be allowed.

7] Accordingly, the application is allowed in terms of prayer clause (B). The execution of award is stayed to the extent of liability of the applicant / appellant – insurance company.

8] The application is disposed of in above terms.

(V.L. ACHLIYA, J.)