

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

901 CIVIL APPLICATION NO.14380 OF 2019
IN FA/938/2018

JYOTI GANESH GAVHANE AND OTHERS

VERSUS

DADASAHEB MACHHINDRA NIMSE AND ANOTHER

...

Advocate for Applicants : Shri Shubham Jayabhar h/f Shri Jayabhar Dattatraya R.
Advocate for Respondent no.2 : Shri Aniruddha S. Usmanpurkar

CORAM: V.L. ACHLIYA, J.

DATE: 12.02.2020

PER COURT :

1] The applicants - claimants have moved this application for permission to withdraw the amount and to transfer the amount deposited by the appellant - insurance company to executing Court i.e. M.A.C.T., Ahmednagar.

2] Heard learned counsel for the applicants - claimants and the learned counsel representing the appellant - insurance company.

3] Learned counsel for the appellant - insurance company submits that proposal to file Special Leave Petition is still under consideration and requests to defer hearing on the application

seeking withdrawal of amount. In the alternative, the learned counsel submits that if request is granted, then same be made subject to filing of undertaking by the applicants that in the event the Hon'ble Apex Court passes any order to refund the amount, then the applicants shall deposit the amount in terms of order to be passed by the Hon'ble Apex Court.

4] Hearing of the application is repeatedly adjourned at the request of learned counsel for the appellant to enable him to take appropriate instructions in the matter. The judgment and order was passed on 7.11.2019. The period of filing appeal has expired. Only for the reason that the proposal to challenge the judgment and order passed by this Court is under consideration, cannot be a ground to postpone the hearing. I am, therefore, inclined to allow the application to the extent of relief claimed by way of prayer clause [C] i.e. to transfer the amount to executing Court.

5] As per the report submitted by the Section Officer, P.L.A. Section, High Court, as on 3.1.2020, amount of Rs.51,01,293/- is available for disbursement. The Registry is directed to transfer the amount lying deposited with interest accrued till the date of transfer to M.A.C.T., Ahmednagar, to be treated as deposit of amount towards satisfaction of award in R.D.No.97/2017 arising out of M.A.C.P. No.559/2012, pending on the file of Member, Motor

Accident Claims Tribunal, Ahmednagar. The executing Court will be at liberty to pass appropriate order in respect of disbursement of amount in terms of award.

6] Civil application is disposed of in above terms.

(V.L. ACHLIYA, J.)