

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

946 CIVIL APPLICATION NO.14206/2019
IN FIRST APPEAL (ST) NO.23640/2019

UJWALA ANAND NAKULE AND ANOTHER
VERSUS
RANA TILAKRAJ BRIJLAL KHURANA AND ANOTHER

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Advocate for Applicants : Shri Nagarkar Kiran M.

Advocate for Respondent no.1 : Smt.Pooja Tayade h/f Shri Rathi Swapnil S.

Advocate for Respondent no.2 : Shri Goyanka M.K.

CORAM: V.L. ACHLIYA, J.

DATE: 10.01.2020

PER COURT :

1] The applicants - claimants have moved this application to transfer the amount deposited by the appellant - insurance company to the Claims Tribunal at Nanded. However, the learned counsel for the applicants submits that the application be treated as an application moved seeking withdrawal of the amount by the claimants.

2] Heard learned counsel for the applicants and respondent nos.1 and 2.

3] Learned counsel for the respondent no.2 - insurance company opposed the application with contention that the appellant has good case to succeed in appeal. It is submitted that there was breach of condition on the part of the insured. The driver of the Bus was not holding valid and effective driving licence to drive the

vehicle in question, which was used for carriage of the passengers. It is further submitted that the award compensation awarded by the Tribunal is excessive and unsustainable in law.

4] On due consideration of the submissions advanced in the light of challenge raised in the appeal, I am of the view that passing of following order would meet the ends of justice.

ORDER

A] The applicant nos.1 & 2 are permitted to withdraw amount of Rs.5,00,000/- each out of amount of Rs.25,49,550/- deposited by the insurance company on furnishing undertaking that in the event the award is modified or set aside, the applicants shall re-deposit the amount within four weeks from the date of passing such order.

B] After paying amount of Rs.10,00,000/- (i.e. Rs.5,00,000/- each), balance amount deposited by the insurance company be invested in fixed deposit initially for a period of two years with standing instructions to renew the fixed deposit till further orders from this Court.

C] The interest accrued on the invested amount be paid to applicant nos.1 & 2 in equal proportion by transferring the amount in their respective savings bank

accounts after every three months till further orders from the Court.

D] Withdrawal of the amount as well as payment of interest in terms of above order shall be subject to final outcome of the appeal.

E] Civil application is disposed of in above terms.

(V.L. ACHLIYA, J.)