IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.261 OF 2020
IN
FIRST APPEAL (ST.) NO.27124 OF 2013

Rekha Kailas Yadav & Ors. .. Applicants

In the matter between
United India Insurance Company Ltd. .. Appellant
Vs.
Rekha Kailas Yadav & Ors. .. Respondents

Mr.Amol B. Gatne for the appellant.
Mr.Sanjay Anant Ghaisas for the applicants/respondent nos.1 to 5.

CORAM : R.D.DHANUKA, J.
DATE : 4th March 2020

P.C.:

. By this civil application, the applicant seeks withdrawal of the amount deposited by the appellant with interest without any security. Civil application is opposed by Mr.Gatne, learned counsel for the appellant on the ground that no case is made out for seeking such withdrawal.

2. Heard learned counsel for the parties and have perused the avements made in the civil application. Reasons recorded for seeking withdrawal of the amount in paragraph 6 of the civil application are accepted.

3. The respondent nos.1, 2, 4 & 5 (original claimants) are permitted to withdraw 50% of the amount directed to be paid by the appellant by the MACT, Raigad by the impugned judgment and award in their favour at this stage, upon furnishing an undertaking before concerned MACT within four weeks from today to the effect that if they do not succeed in this first appeal, they would return the amount that would be withdrawn with interest at such rate as this Court may direct by subsequent order. Copy of the undertaking shall be served upon the learned advocate appearing for the appellant within one week from the date of filing such undertaking. Amount would be withdrawn only after filing such undertaking.

4. It is made clear that if the undertaking is not furnished within four weeks from today, the order passed by this Court allowing the respondent nos.1, 2, 4 & 5 to withdraw the amount to stand vacated without further reference to the Court. In that event, the concerned MACT shall invest the said amount in a fixed deposit of a nationalized bank initially for a period of five years and thereafter for like period depending upon the pendency of the first appeal.

5. In so far as the respondent no.3 are concerned, he is still minor. 50% of the amount directed to be paid by the MACT, Raigad as due and payable in her favour by the judgment and award dated 27th

February 2013 shall be invested in a fixed deposit of a nationalized bank initially for a period of five years and thereafter for like period till he attains the age of majority or till the First Appeal is disposed of whichever is earlier.

6. The applicant no.1 is permitted to withdraw interest amount on such Fixed Deposit deposited by the appellant for the purpose of maintenance of the respondent no.3 during the pendency of the First Appeal or till he attains the age of majority whichever is earlier. Upon attaining the age of majority, the respondent no.3 is allowed to apply for withdrawal of his share or in case of appeal filed by the appellant is dismissed.

7. The concerned MACT is directed to invest the balance 50% of the amount in a fixed deposit of a nationalized bank initially for a period of five years and thereafter for like period depending upon the pendency of the first appeal.

8. Civil application is disposed of on aforesaid terms. Parties as well as the concerned MACT to act on the authenticated copy of this order.

R.D.DHANUKA, J.