IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 CIVIL APPLICATION NO.1843 OF 2020
IN
FIRST APPEAL NO.2386 OF 2020

…

KAMAL BHASKAR MORE & OTHERS
VERSUS
M/S.SHRIRAM GENERAL INSURANCE CO.LTD.& OTHERS

…

Mr.V.G.Kodale, Advocate holding for Mr.V.D.Gunale, Advocate for the applicants.
Mr.S.S.Dargad, Advocate holding for Mr.S.G.Chapalgaonkar, Advocate for the respondent no.1.

…

CORAM : V.L.ACHLIYA,J.
DATE : 21.01.2021

P.C.

1] The applicants–claimants have moved this application seeking withdrawal of the amount deposited by the appellant – Insurance Company.

2] Learned counsel for the appellant – Insurance Company opposed the application with the contention that the appellant has good case to succeed in appeal. It is submitted that accident was occurred on 17.06.2014. The deceased succumbed to injuries on 30th June, 2014. The FIR was registered on 15.07.2014 on the basis of hearsay information provided by one Journalist. No eye witness examined to establish the involvement of the vehicle. It is further submitted that the driver of the vehicle was not holding valid and effective driving license at the time of accident to drive the vehicle. The license was expired much prior to the accident. It was renewed about one year after the alleged accident. In that view there was breach of policy condition. The Tribunal has failed to appreciate the evidence in its proper perspective. In this background, learned counsel submits that the appellant has good case to succeed in appeal.

3] On the other hand, learned counsel for the applicants – claimants supported the award and submits that no evidence adduced on the part of the appellant – Insurance Company to establish its case that the claim petition has been filed in collusion with the owner / insured. So also the appellant – Insurance Company failed to prove the breach of policy condition.

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

ORDER

i] The applicants are permitted to withdraw the amount of Rs.2,00,000/- [Rs.Two Lac only] on furnishing undertaking to the effect that in the event award is set aside or modified, the applicants shall re-deposit the amount within eight [8] weeks. The amount be paid to the applicant no.1 for herself and on behalf of applicant nos.2 to 4.

ii] The balance amount be invested in Fixed Deposit initially for a period of two years with any Nationalized Bank with standing instructions to renew the same till disposal of the appeal.

iii] The interest accrued over the amount invested in Fixed Deposit be paid to the applicant no.1 after regular interval of three months to be utilized for maintenance of herself and co-applicants. The amount be regularly transferred to the savings bank account of the applicant no.1 after every three months.

iv] The withdrawal of the amount and payment of interest to the applicants shall be subject to outcome of the Appeal.

v] The applicant no.1 is directed to file undertaking to the effect that in the event award is set aside or modified, the applicants shall re-deposit the amount within eight [8] weeks from the date of passing of such order by this Court.

vi] Civil Application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

DDC