IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

4 CIVIL APPLICATION NO.7393 OF 2020
IN
IN FIRST APPEAL NO. 875 OF 2012

PRATIBHA @ PUJA PRADIP DANGAVHAL
AND ORS

VERSUS

ICICI LOMBARD GENERAL INSURANCE COM LTD,
THR ITS AUTHORIZED OFFICIAL ZENITH HOUSE,
MUMBAI AND OTHER
...

Advocate for Applicants : Mr Madhav M Bhokarikar
Advocate for Respondent No.1 : Mr S.S. Patil

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 29th NOVEMBER, 2021

PER COURT :

1. It is an application for withdrawal of amount moved by the applicants/original claimants.

2. Heard Mr Bhokarikar, learned counsel for the applicants/original claimants and Mr S.S. Patil, learned counsel for respondent No.1/ICICI Lombard General Insurance Co. Ltd.

3. It is revealed during the course of argument that as per the order passed by this Court in Civil Application No. 6553/2012 in First Appeal No. 875/2012 for stay dated 10.02.2015, respondent No.1/Insurance Company has deposited the same amounting to Rs. 21,01,289/-.

4. Mr Patil, learned counsel for the Insurance Company/Respondent No.1 strongly opposed to allow this application on the ground that the Tribunal has committed serious error in fastening liability on respondent No.1 when G.P. is the main offending vehicle involved in the accident. Respondent No. 1 is the Insurance Company of the motorcycle involved in the accident, and as such, the interest of the Insurance Company needs to be protected.

5. On the other hand, Mr Bhokarikar, learned counsel for the claimants submits that the applicants are in genuine need of money and entire amount may be allowed to be withdrawn.

6. Having regard to the submissions of the learned counsel for both the sides and looking to the point raised by Mr Patil, learned counsel for Respondent No.1/Insurance Company, I am of the considered view to allow original claimants/ applicants to withdraw 50 % of the amount of compensation deposited by the Insurance Company along with interest accrued thereon and 50 % of the amount can be invested in any nationalized bank.

ORDER

(I) The application is hereby allowed as under :-

(A) The applicants/original claimants are hereby allowed to withdraw 50 % of the amount deposited by respondent

No.1/Insurance Company with accrued interest thereon on furnishing usual undertaking with the Registrar (Judicial) of this Court.

(B) Remaining 50 % of the amount of compensation with accrued interest thereon be invested in the Fixed Deposit Account in any nationalized bank initially for a period of two years with clause to renew it time to time.

(C) If minor applicant Nos. 2 and 3 have become major, they may submit their age proof so as to withdraw their respective share of compensation.

(D) Civil Application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

mta