IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

13 CIVIL APPLICATION NO.12241 OF 2021
IN FA/3331/2018

SUREKHA DATTATRAYA LASHKARE AND ORS
VERSUS
M/S SHRIRAM GENERAL INSURANCE CO. LTD., THR ITS BRANCH MANAGER, AURANGABAD AND ORS

Mr Ram B. Deshpande, Advocate for applicants
Mr S.G. Chapalgaonkar, Advfocate for respondent no.1

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 22nd NOVEMBER, 2021

PER COURT :

1. It is an application for withdrawal of entire amount of Rs.36,83,077/- with accrued interest thereon deposited in this Court by the appellant/Insurance Company.

2. Heard Mr Ram B. Deshpande, learned Counsel for the applicants and Mr S.G. Chapalgaonkar, learned Counsel for respondent no.1/appellant.

3. Mr S.G. Chapalgaonkar, learned Counsel for the appellant submits that it is a collusive claim. There was delay in lodging of F.I.R. as alleged accident took place on 15.4.2015 and F.I.R. came to be lodged on 2.5.2015 at the hands of one Sampat Sakharam Laskare who is stated to be cousin of the deceased and had no personal knowledge about the incident. Learned Counsel for the appellant further submitted that after recording of supplementary statement on 10.5.2015, the vehicle has been falsely implicated in the claim. The entire case is depend upon hear say. The claimant has not proved the involvement of the vehicle by adducing sufficient

evidence before the Tribunal. Mr Chapalgaonkar, learned Counsel for the appellant also invited my attention to the impugned judgment and award passed by the Tribunal, more particularly, para nos. 8 to 10 and points out that it is a collusive claim. The appeal is ready and it can be listed for final hearing. Learned Counsel for the appellant has strongly opposed to allow the applicants to withdraw the amount of compensation in view of important points involved in the appeal.

4. Mr Deshpande, learned Counsel for the applicants also invited my attention to the impugned judgment and award passed by the Tribunal and submits that the Tribunal has considered all these aspects and turned down the pleas raised by the appellant. The appellant has not examined the driver of the vehicle and, therefore, the claim of the appellant was disproved. The deceased was making sculptures of idols and was earning Rs.20,000/- per month. The applicant no.1 being a widow and mother of applicants no.2 to 5 minor children and applicant no.6 being an old aged mother-in-law of applicant no.1, is in need of money. He submits that the application needs to be allowed.

5. Having regard to the arguments advanced by respective Counsel and on perusing the impugned judgment and award, it prima facie appears that the points raised by Mr Chapalgaonkar, learned Counsel for respondent no.1/appellant have been considered. The Tribunal has observed that the Insurance Company has failed to produce contrary evidence and as such, the appellant was directed to pay the compensation in view of involvement of the vehicle in question. Even though Mr Chapalgaonkar, learned Counsel for the appellant has raised important points, that would be taken into consideration

at the time of final hearing and it being appeal of 2018, it may take its own time. The applicant no.1 being widow is required to maintain her five minor children and old aged mother-in-law/applicant no.6. The earning member of the family has lost his life in a motor vehicle accident. The points involved in the appeal would be considered at the time of final hearing. In view of above, the applicants may be allowed to withdraw 50% of the amount of compensation deposited by the appellant/Insurance Company on furnishing usual undertaking to the satisfaction of Registrar (Judicial). Hence, the following order :

ORDER

(I) The application is partly allowed.

(II) The applicants/original claimants are permitted to withdraw 50% of the amount of compensation with accrued interest thereon deposited by the appellant/Insurance Company, on furnishing usual undertaking to the satisfaction of Registrar (Judicial). Out of 50% amount, the share of the minor applicants shall be kept in fix deposit as directed by Member, M.A.C.T., Jalgaon in the operative part of the order/award. The applicant no.1/mother of applicants no.2 to 5 is entitled to get quarterly interest accrued thereon.

(III) The remaining 50% of the amount with accrued interest be kept in fix deposit at least for a period of two years.

(IV) Civil Application stands disposed of accordingly.

(SHRIKANT D. KULKARNI, J.)

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