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**IN THE HIGH COURT OF BOMBAY AT GOA.
MISC. CIVIL APPLICATION NO. 258 OF 2021**

IN

FIRST APPEAL NO. 49 OF 2016.

JAKHOTIYA PLASTICS PVT.
LTD., REP. BY ITS
MANAGING DIRECTOR, OM
PRAKASH JAKHOTIYA ... Applicant.
VS
SMITA LAXMAN GAUDE
AND 3 ORS ... Respondents.

Mr. Y. V. Nadkarni and Mr. S. Kamat, Advocates for the applicant.
Mr. E. Afonso, Advocate for the respondent nos. 2,3 and 4.

WITH

MISC. CIVIL APPLICATION NO. 253 OF 2021

IN

FIRST APPEAL NO. 49 OF 2016.

SMITA LAXMAN GAUDE
AND 3 ORS
VS
JAKHOTIYA PLASTICS PVT.
LTD., THR. DULY AUT.
REP., DINESH SHARMA

Mr. E. Afonso, Advocate for the applicants.
Mr. Y. V. Nadkarni and Mr. S. Kamat, Advocates for the
respondent.

CORAM: MANISH PITALE, J.

DATED: 7th December, 2021.

P.C.:

1. Misc. Civil Application no. 253 of 2021 is filed by the respondents in the appeal seeking a direction to the appellant to deposit balance 75% of the awarded amount as per the order of the Motor Accident Claims Tribunal and release another 25% of the awarded amount in the interest of justice. It is highlighted that when interim stay of the award was granted, the original appellant was directed to deposit 25% of the amount and to furnish a bank guarantee of 75% of the amount. The bank guarantee expired in the year 2019 and it has not been renewed.
2. Misc. Civil Application no. 258 of 218 is filed by the original appellant stating that due to inadvertence the bank guarantee was not renewed and, in that backdrop, permission is sought for furnishing fresh bank guarantee for the amount of 75% to be issued by the Kotak Mahindra Bank. It is further submitted that the Registry may be directed to return the earlier bank guarantee issued by State Bank of India and that aforementioned fresh bank guarantee would be furnished by the appellant .

3. Record shows that an amount of 25% deposited by the original appellant was permitted to be withdrawn by the respondents/claimants. The learned Counsel for the respondents/claimants submits that the claimants need further amount and that therefore, instead of permitting the appellant to furnish bank guarantee for the balance 75% amount, it should be directed to deposit further 25% amount and to furnish bank guarantee for remaining 50% of the amount. A further prayer is made for permission to withdraw such amount that may be deposited by the appellant.

4. This Court has heard learned Counsel appearing for the rival parties. It would be in the interest of justice that, instead of permitting the original appellant to furnish a fresh bank guarantee of 75% of the awarded amount, a direction is given for furnishing fresh bank guarantee of 50% of the amount and the appellant is directed to deposit further amount to the extent of 25% of the awarded amount.

5. In view of the above, both these applications are disposed of as follows: -

- (a) The original appellant shall deposit further 25% of the amount in this Court within a period of four weeks from today.
- (b) From the said further amount to be deposited by the original appellant, 25% each shall be released in favour of the applicant nos. 1 and 4.
- (c) The remaining amount shall be invested in Nationalized Bank for a period of three years in the name of the applicant nos. 2 and 3, through applicant no. 1, as natural guardian.
- (d) The applicant no. 1 shall be entitled to quarterly interest on the fixed deposit, to be applied towards the maintenance and welfare of the applicant nos. 2 and 3.
- (e) The fixed deposit receipt shall be handed over to the applicant no. 1. The fixed deposit, shall not be encashed without the permission of the Court.
- (f) The appellant shall furnish fresh bank guarantee for 50% of the awarded amount in this Court within a period of four weeks.

6. It is made clear that if the original appellant fails to abide by aforesaid directions, interim order passed by this Court shall stand vacated.

7. Consequently, prayer B made in the MCA No. 258 of 2021 is granted.

8. Misc. Civil Applications stand disposed of.

MANISH PITALE, J.