Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.629 OF 2021

IN

FIRST APPEAL NO.1221 OF 2016

Deepa Jiten @ Jitenkumar Name and others.] Applicants

<u>IN THE MATTER BETWEEN</u>:

National Insurance Company Limited] Appellant

Vs.

Deepa Jiten @ Jitenkumar Name and others.] Respondents

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Mr. S.G. Thorat, for Applicants.

Mr. D.S. Joshi i/b M/s. KMC Legal Venture, for Respondent.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 15th MARCH, 2021.

P.C.

1. Applicants-original claimants have moved an application seeking withdrawal of the amount of compensation awarded by the learned Member, M.A.C.T, Kolhapur in M.A.C.P No.78 of 2013 on 16th May, 2014.

2. Heard Mr. Thorat, learned Counsel for the applicants.

3. Earlier, this Court (Coram: R.M. Savant, J.) by an order dated 19th July, 2016 permitted the applicants to withdraw an

amount of Rs.10,00,000/- out of the principal amount with accrued interest.

4. It is now contended that the applicants are in need of money. Applicant No.2 is doing first year diploma in Mechanical Engineering. For the purpose of fees to be paid for the said education, the amount is required.

5. Learned Counsel Mr. Joshi holding for Mr. Mehta, for the respondent objects for withdrawal of the entire amount of compensation by stating that earlier the applicants were permitted to withdraw Rs.10,00,000/- out of the total amount of compensation.

6. Having considered the reasons stated in the application, I permit the applicants to withdraw 50% of the amount of compensation deposited in the Tribunal with accrued interest inclusive of the amount of Rs.10,00,000/- which was already withdrawn pursuant to an order dated 19^{th} July, 2016.

7. Applicant No.1 shall file an undertaking before M.A.C.T, Kolhapur that if the respondent-insurer succeeds in the appeal, she will refund the amount with interest at such rate as would be directed by this Court depending upon the outcome of the first appeal. Undertaking shall be filed by applicant No.1 at the time of withdrawing the amount.

8. If applicant No.1 does not file an undertaking at the time of withdrawing the amount, the amount deposited by the respondent shall be invested by the M.A.C.T in the fixed deposit of a Nationalized Bank for a period of one year and thereafter for one more year again after obtaining order from this Court.

9. If 50% amount (inclusive of Rs.10,00,000/-already withdrawn by the applicants pursuant to an order dated 19th July, 2016) is withdrawn by the applicant, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.

10. The application stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]