Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.6010 OF 2008

IN

FIRST APPEAL NO.1186 OF 2008

Shital Shekhar More and others.] Applicants

vs.

ICICI Lombard General Insurance]
Company Limited and another] Respondents

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None for the applicants.

Ms. Poonam Mital i/b Rahul Mehta, K.M.C. Legal Venture, for Respondent No.-1-Insurer.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 18th MARCH, 2021.

P.C.

1. This is an application seeking withdrawal of the amount of compensation awarded by the learned Member, M.A.C.T, Kolhapur vide Judgment and Award dated 12th February, 2008 in M.A.C.P No.561 of 2006.

2. Though praecipie is moved by learned Counsel for the applicants, none appears for the applicants. However, I have gone through the application and the praecipe.

3. It is contended in the application that applicant No.1 is the widow of the deceased. Applicants No.2 and 3 are minor children and applicants No.4 and 5 are the parents of the deceased. The deceased was the only earning member in the family and, therefore, by doing some household work, applicant No.1 is looking after all the members of the family.

4. For the reasons stated in the application, the applicants have prayed for withdrawal of the amount of compensation.

5. Ms. Mital, holding for Mr. Mehta, learned Counsel for respondent No.1-insurer, however, objects for withdrawal of the amount of compensation by stating that respondent No.1-insurer has a good case on merits.

6. Having considered the reasons stated in the application and objection raised by learned Counsel for respondent No.1-insurer, at this stage, the applicants are permitted to withdraw 50% of the amount of compensation with accrued interest, upon furnishing an undertaking at the time of withdrawing the amount of compensation before the Tribunal that if respondent No.1-insurer succeeds in the appeal, they will refund the amount with interest at such rate as would be directed by this Court depending upon the outcome of the first appeal.

7. If the applicants do not file an undertaking at the time of withdrawing the amount of compensation, the amount deposited by respondent No.1-insurer 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 an order from this Court.

8. If 50% amount is withdrawn by the applicants, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.

9. The application stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]