Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2529 OF 2019

IN

FIRST APPEAL NO.1314 OF 2019

Rupali Shernik Kumbhoje and others.] Applicants

Vs.

The New India Assurance Co. Ltd and others] Respondents

.....

Mr. Yuvraj P. Narvankar, for Applicants.

Ms. D. Shalini Shankar, for Respondent No.1-Insurer.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 23rd 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, Jaysingpur vide a judgment and order dated 26th December, 2016 passed in M.A.C.P No.89 of 2012.

2. Heard learned Counsel for the applicants.

3. In paragraph 9 of the application, it is stated the deceased was the husband of applicant No.1 and father of applicants No.2 and 3 and son of applicants No.4 and 5.

4. It is submitted that the applicants were dependents of the deceased. They do not have any source of income. Parents of the deceased are aged about 73 and 78 years of age. They are facing several health issues. The children are prosecuting their studies and, therefore, are in need of money. There are extreme financial constraints. Ever since the unfortunate incident had occurred in 2012, the applicants have not received any amount of compensation.

5. Ms. D. Shalini Shankar, learned Counsel for the respondent-insurer, on the other hand, objects withdrawal of the amount of compensation by contending that the respondent-insurer has a good case on merits.

6. Having considered the reasons stated in the application and objection raised by learned Counsel for the respondent-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 the respondent-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 the respondent-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 If 50% amount is withdrawn by the applicants, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.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.]