Uday S. Jagtap

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 776 OF 2021
IN
FIRST APPEAL NO. 370 OF 2017

Smt. Chhaya Anna Chavan .. Applicant

In the matter between

Shriram General Insurance Co. Ltd. .. Appellant

Vs.

Smt. Chhaya Anna Chavan & Ors. .. Respondents

.....

Mr. S.M. Katkar i/b Ms. Manisha A. Devkar for the applicant
Ms. Kalpana Trivedi i/b KMC Legal Venture for the appellant – insurer

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 19th MARCH, 2021

P.C.

1. This is an application seeking withdrawal of the amount of compensation deposited by the appellant – insurer in MACT, Satara.

2. Heard Mr. Katkar, holding for Ms. Manisha A. Devkar for the applicant.

3. He submits that the applicant is aged about 55 years, who has not received any amount ever since the award came to be

UDAY SHIVAJI JAGTAP Digitally signed by UDAY SHIVAJI JAGTAP Date: 2021.03.22 18:00:39 +0530 passed by the Tribunal in 2016. She is a house-wife. She does not have any source of income and, therefore, she find it difficult to maintain herself. She is in extreme need of money for her livelihood.

4. On the other hand, Ms. Trivedi, holding for Mr. Mehta objects withdrawal of the whole amount. It is submitted that the appellant-insurer has a good case of merits on the aspect of non-consideration of contributory negligence by the Chairman, MACT, Satara. She submits that if the applicant is permitted to withdraw the whole amount, the entire purpose of filing the appeal would be frustrated.

5. Having considered the submissions of the respective counsel, I am of the view that interest of justice would be sub-served if the applicant is permitted to withdraw 60% of the amount of compensation with accrued interest. The applicant shall furnish an undertaking within two weeks that if the appellant - insurer succeeds in appeal, the applicant shall refund the amount with interest at such rate as would be directed by this Court, depending upon the outcome of the first appeal.

6. If the applicant does not file an undertaking within the aforesaid period, the amount deposited by the appellant - insurer shall be invested by the M.A.C.T in a fixed deposit in any Nationalized Bank for a period of one year and thereafter for one more year again after obtaining order from this Court.

7. If 60% amount is withdrawn by the applicants, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.

8. The application stands disposed of.

(PRITHVIRAJ K. CHAVAN, J.)