Uday S. Jagtap

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 656 OF 2021
IN
FIRST APPEAL (ST.) NO. 810 OF 2016

Satish Suresh Nikam .. Applicant
In the matter between
Reliance General Insurance Co. Ltd. .. Appellant
Vs.
Satish Suresh Nikam & Anr. .. Respondents

.....

Mr. Tejpal Ingale for the applicant
Ms. Pooja Singh a/w Deepika Prabhala for the appellant – insurer

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 10th MARCH, 2021

P.C.

1. This is an application seeking withdrawal of the amount of compensation awarded by M.A.C.T., Raigad at Alibag in Claim Application No. 193 of 2010.

2. The Chairman, M.A.C.T., Raigad in the impugned judgment and award has specifically observed that the insurer is at liberty to recover the amount of compensation from the owner of the offending vehicle by taking aid of the judgment in the case of ***National Insurance Co. Ltd. Vs. Swaran Singh & Anr. (2004) A.C.J. 1***.

3. In that view of the matter, the appellant – insurer can very well recover the amount after depositing the amount of award before the Tribunal. Be that as it may.

4. Paragraph no.4 of the application seeking withdrawal, indicates that the victim had suffered 60% permanent disability as his left leg below the knee came to be amputed pursuant to motor vehicle accident, in which he was injured. It is submitted that the applicant is now totally dependent upon his father, who was running a small shop. However, unfortunately his father died due to heart-attack in the month of October, 2020. The applicant has a minor son. The family has obtained hand loans from relatives for medical treatment as well as for the maintenance of the family. Because of Covid-19 pandemic situation and subsequent lock-down, even the shop of the applicant's father had to be closed and, therefore, it is very difficult for the applicant to maintain his family consisting of his aged mother, wife and minor son, having no source of income.

5. Ms. Pooja Singh, learned Counsel for the appellant – insurer objects withdrawal of the amount by contending that she has a good case on merits in view of the fact that the driver of the offending vehicle did not possess a valid driving license. As stated hereinabove, an order of pay and recover has already been passed by the learned Chairman of the Tribunal.

6. Having considered the respective submissions, at this stage, the applicant is permitted to withdraw 70% 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.

7. 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.

8. If 70% amount 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.

9. The application stands disposed of.

(PRITHVIRAJ K. CHAVAN, J.)