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Shobha Kautik Sawant and Others ...Applicants
vs.
Bajaj Allianz General Insurance Co. Ltd. ...Respondent

Mr. Pritesh Bohade, for the Applicants
Mr. D.S. Joshi, for the Respondent

CORAM: N. J. JAMADAR, J.
DATE: NOVEMBER 24, 2021

. This interim application is preferred by the applicants /original claimants to modify the condition subject to which the applicants were permitted to withdraw 50% of the amount of compensation along with interest accrued thereon, by an order dated 9th December, 2019.

2. The applicants aver that they are not in a position to furnish security to the satisfaction of the Tribunal subject to which they were permitted to withdraw 50% of the amount of compensation by order dated 9th December, 2019.

3. While permitting the applicants/ original claimants to withdraw 50% of the amount of compensation, this Court had noted

the defence on the part of the appellant/insurer that the offending vehicle was not at all involved in the accident and there was delay of 20 days in lodging the first information report in respect of the said accident. Thus, to protect the interest of the appellant/insurer this Court ordered the applicant to furnish security.

4. Paragraph 4 of the order reads as under:

4] I am of the view that the appellant has not examined any witness before the Tribunal and thus the applicants have made out a case for withdrawal of the 50% of the amount deposited by the appellant however on the condition that the applicants furnish security to the satisfaction of the MACT within such time as the MACT may direct. If any such security is furnished by the applicants to the satisfaction of the MACT, Nashik within the time as may be prescribed by the MACT, the MACT to permit the applicants to withdraw 50% of the amount deposited by the appellant. If the security is not furnished as may be prescribed by the MACT, Nashik, MACT, Nashik is directed to invest the entire amount in the fixed deposit of a nationalized bank initially for a period of five years and for like period after obtaining further orders from this Court.

5. The learned counsel for the applicants has invited attention of the Court to the order passed by the learned Member, MACT, Nashik on 4th February, 2020 directing the applicants to furnish solvent surety to the extent of 50% of the amount of compensation along with interest accrued thereon, file an affidavit and furnish security in the sum of Rs. 20,000/- as pre-conditions for withdrawal of the said amount. The learned counsel for the applicants further submits that the applicants had furnished a certificate to show that the

applicants were solvent to the extent of Rs. 20,44,000/-. A copy of the said certificate is annexed at page 13 of the application.

6. Evidently, after the death of the deceased, the wife and children of the deceased may find it onerous to furnish security to the extent of 50% of the amount of compensation. However, in the backdrop of the nature of the defence, it was equally imperative to protect the interest of the appellant/insurer.

7. In the circumstances, it would be expedient in the interest of justice to allow the applicants to withdraw a sum of Rs. 20 lakhs provided security is furnished to the satisfaction of the learned Member, MACT, Nashik. This would take care of the concern of immediate necessities of life of the applicants. The learned Member, Tribunal is thus requested to permit the applicants'/claimants to withdraw Rs. 20,00,000/- upon furnishing security to the tune of Rs. 20,00,000/-

8. In the event, the applicants are in a position to furnish the security for the balance amount, they shall be at liberty to approach the learned Member, MACT, Nashik to release further amount after withdrawal of the said amount of Rs. 20 lakhs, so that the total

amount of withdrawal does not exceed 50%, permitted by this Court by order dated 9th December, 2019.

9. The application accordingly stands disposed of.

(N. J. JAMADAR, J.)