

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1597 OF 2020

IN

FIRST APPEAL (ST) NO. 17380 OF 2017

Siddharth Nivrutti Jagatap

...Applicant

In the matter between

Reliance General Insurance Co. Ltd.

...Appellant

Versus

Siddharth Nivrutti Jagatap & anr.

...Respondents

Mr. Yogesh Pande, for the Applicant.

Ms. Poonam Mittal, for the Appellant in FA/for the
Respondent in IA.

CORAM: N. J. JAMADAR, J.

DATED : 25th OCTOBER, 2021

PC:-

1. Not on board. Upon mentioning taken on production board.
2. Heard Mr. Pande, the learned Counsel for the applicant.
3. This application is preferred seeking permission to withdraw the amount of compensation deposited by the appellant – insurer in terms of the Award in MACP No.187/2013, dated 8th August, 2017, passed by the learned Chariman, MACT, Pune.
4. The learned Counsel for the appellant – insurer resisted the application. It was submitted the learned Member, MACT, Pune, committed an error in awarding the compensation to the

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applicant as the applicant was not at all dependant upon the deceased. Inviting the attention of the Court to the observations in paragraph 12 of the impugned judgment, it was submitted that the material on record clearly indicates that the applicant was gainfully employed.

5. The said submission about the dependency of the applicant appears to have some substance. It can be legitimately considered at the stage of the final hearing of the appeal. At this stage, the applicant can be permitted to withdraw a portion of the amount with certain conditions. The averments in the application make out adequate justification for permitting partial withdrawal.

6. Hence the following order:

: O r d e r :

- (i) The application stands allowed.
- (ii) The applicant is entitled to withdraw 40% of the amount of compensation alongwith the interest accrued thereon, subject to furnishing an undertaking before the Tribunal, to bring back the said amount alongwith interest at such rate as may be directed by the Court, in the event the appeal is allowed and it is held that the applicant is not entitled to compensation.
- (iii) The application stands disposed of.

[N. J. JAMADAR, J.]