Uday S. Jagtap

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 857 OF 2021
IN
FIRST APPEAL (ST..) NO. 27046 OF 2018

Bharati Kailas Bhavar & Ors. .. Applicants
In the matter of
Reliance General Insurance Co. Ltd. .. Appellant
Vs.
Bharati Kailas Bhavar & Ors. .. Respondents

.....

Mr. T.J. Mendon for the applicants
Mr. Ketan Joshi i/b KMC Legal Venture for the appellant – insurer

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 24th MARCH, 2021

P.C.

1. This is an application seeking withdrawal of the amount of compensation granted by order dated 23rd December, 2017 passed by M.A.C.T., Palghar in M.A.C.P. No. 109 of 2016.

2. Heard Mr. Mendon, learned Counsel for the applicants.

3. It is submitted that the widow, three minor children and the parents of the deceased are facing financial constraints ever since the deceased had died in the motor vehicle accident. The applicants were completely dependants upon the income of the deceased. He was the only bread winner of the family. The applicants are now totally at the mercy of their family, friends and relatives for their livelihood. For all these reasons, it is submitted that the applicants

be permitted to withdraw the amount of compensation.

4. Mr. Ketan Joshi, holding for Mr. Mehta, learned Counsel for the appellant – insurer, however, strongly objects for permitting the applicants to withdraw the amount on the ground that the appellant has a good case on merits.

5. Having considered the submissions, at this stage, the applicants are permitted to withdraw 50% of the amount of compensation with accrued interest. The applicant nos. 1, 4 and 5 shall furnish an undertaking within two weeks that if the appellant - insurer succeeds in appeal, the applicants 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 applicants do 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 If 50% amount is withdrawn by the applicants, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.

8. The application stands disposed of.

(PRITHVIRAJ K. CHAVAN, J.)