Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1163 OF 2020

IN

FIRST APPEAL NO.1068 OF 2016

Drupada Waghu Katurde and another.] Applicants

IN THE MATTER BETWEEN:

Reliance General Insurance Co. Ltd.] Appellant

vs.

Drupada Waghu Katurde and others.] Respondents

.....

Mr. Rajesh A. More, for Applicants.

Ms. Deepika Prabhala, for Respondent No.1-Insurer.

.....

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 9th APRIL, 2021.

[Through Video Conferencing]

P.C.

1. This is an application seeking withdrawal of the amount of compensation by the aged parents of the deceased.

2. Heard Mr. More, learned Counsel for the applicants and Ms. Prabhala, learned Counsel for the respondent-insurer.

3. Mr. More submits that applicant No.2-Waghu suffered from chest pain and operated for coronary angiography and coronary

angioplasty in the year 2016. In the year 2018 again applicant No.2 suffered from chest pain and, therefore, admitted in Pune Hospital and was operated for coronary angioplasty on 10th September, 2018, for which he had to spend Rs.1,50,000/-. It is submitted that he is also patient of Diabetics and High Blood Pressure. He continuously requires medical treatment. Mr. More has annexed medical papers in support of his contention which are at annexures B and C.

4. Ms. Prabhala, learned Counsel for the appellant-insurer, on the other hand, objects withdrawal of the amount of compensation emphasizing that it is a case of fake policy and, therefore, the appellant-insurer has very good chances of succeeding in the appeal. In case, the appeal is allowed, it would be difficult to recover amount from the applicants. Be that as it may.

5. Considering the grounds made out in the application supported with medical papers and also in view of the old age of the applicants, at this stage, the applicants are permitted to withdraw 60% of the amount of compensation with accrued interest upon furnishing an undertaking at the time of withdrawing the amount of compensation before the Tribunal that if the appellant-insurer succeeds in the appeal, they will 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 at the time of withdrawing the amount of compensation, the amount deposited

by the respondent-insurer shall be invested by the M.A.C.T in the fixed deposit of a Nationalized Bank for a period of one year and thereafter for one more year again after obtaining an 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.]