Uday S. Jagtap

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2974 OF 2020
IN
FIRST APPEAL (ST.) NO. 13581 OF 2019

Smt. Deepali Sugandh Talawadekar & Ors. .. Applicants

In the matter between
Bharti Axa General Insurance Co. Ltd. .. Appellant
Vs.
Smt. Deepali Sugandh Talawadekar & Ors. .. Respondents

.....

Mr. S.S. Vidyarthi a/w Ruchika Dave for the applicants
Mr. Rahul Mehta i/b KMC Legal Venture for the appellant – insurer

CORAM : PRITHVIRAJ K. CHAVAN, J.
DATED : 2nd MARCH, 2021

P.C.

1. This is an application for withdrawal of the entire amount of compensation deposited by the insurance company to the tune of Rs.1,68,84,655/- with accrued interest in M.A.C.T., Mumbai.

2. Heard Mr. Vidyarthi, learned Counsel for the applicants - claimants. He submits that there is no substance in the appeal as it is on quantum and, therefore, claimants be permitted to withdraw the entire amount of compensation with accrued interest. The learned Counsel has taken me through the impugned judgment and award highlighting the observations made by the learned Member, which according to him are quite justified.

3. On the other hand, Mr. Mehta, learned Counsel for the appellant - insurer objects withdrawal of the entire amount of compensation.

4. It is a matter of record that earlier the applicants were permitted to withdraw Rs.5 lakhs and Rs.3 lakhs by respondent nos. 1 and 5 with accrued interest.

5. Considering the reasons stated in the application and the fact that the award came to be passed way-back in the year 2018, at this stage, the applicants are permitted to withdraw 50% of the amount of compensation with accrued interest. This amount shall be excluding the amount which has already been withdrawn by respondent nos. 1 and 5. The applicants 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 If 50% amount is withdrawn by the applicants, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.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.)