IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.4043 OF 2021
IN
FIRST APPEAL ST NO.5206 of 2018

Lalmani Sureshchandra Yadav & Ors .. Applicants
<u>In the matter between</u> (orig Resp nos.1 to 2)

Reliance General Insurance Co.Ltd .. Appellant
Versus
Lalmani Sureshchandra Yadav & Ors .. Respondents

…

Ms.Poonam Mittal for the applicant.
Mr.Brijesh Shukla for respondent nos.1 to 4.

CORAM: BHARATI DANGRE, J.
DATED : 14th DECEMBER 2021

<u>P.C</u>:-

1 By the present Application, the respondents (claimants) seek withdrawal of the amount deposited by the Insurance Company in the Tribunal, pursuant to which the impugned judgment under challenge is stayed.

By the order dated 16th August 2016 passed by the MACT, Mumbai, the applicants in the present Application were held entitled for compensation of Rs.16,49,218/- along with interest @ 7.5% from the date of application till its realization and the liability was fastened upon the Insurance Company which was permitted to recover the same from the owner of the offending vehicle by filing execution. Pursuant thereto, cheque of an amount of Rs.24,91,334/- and another cheque of Rs.2,10,782/- has been deposited in the MACT, Mumbai on 28th February 2019.

2 Heard the learned counsel for the applicant who has highlighted the hardship faced by the claimants, particularly when the deceased was the sole bread earner of the family. The need for money is set out in paragraph no.7 and though they have sought withdrawal of the entire decretal amount, considering the hardship faced by the applicants, I am inclined to allow withdrawal of 50% of the amount which has been deposited before the MACT. This withdrawal is subject to an undertaking being submitted by the applicants that in case if the Appeal succeed and this Court hold the applicants disentitle for the amount, they shall refund the same with interest that shall be levied by the Court at the time of final adjudication of the Appeal.

3 On the 50% of the amount being permitted to be withdrawn, the remaining amount shall be invested by MACT in a Fixed Deposit.

With the aforesaid observation, IA No.4043 of 2021 is allowed.

SMT. BHARATI DANGRE, J

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