

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (STAMP) NO. 19778 OF 2019

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Bajaj Allianz General Insurance Company
Ltd. Through its Divisional Officer ... Appellant

Vs.

1. Shri Mohammed Jahid Shafique
Ahemad Ansari through
Father Shafique Ahmed Rashid Ansari
& Anr. ... Respondents

WITH

INTERIM APPLICATION NO. 2653 OF 2021
(For withdrawal of amount)

IN

FIRST APPEAL (STAMP) NO. 19778 OF 2019

Mohammad Jahid Shafique Ah. Ansari
& Anr. ... Applicants

In the matter between :

The Divisional Officer,
Bajaj Allianz General Insurance Company
Ltd. ... Appellant

Vs.

1. Shri Mohammed Jahid Shafique
Ahemad Ansari through
Father Shafique Ahmed Rashid Ansari
& Anr. ... Respondents

WITH

INTERIM APPLICATION NO. 1209 OF 2020

WITH

CIVIL APPLICATION NO. 2545 OF 2019

IN

FIRST APPEAL (STAMP) NO. 19778 OF 2019

.....

Mr. Pritesh K. Bohade for applicants in IA-2653-2021.
Mr. Sarthak S. Diwan, for appellant.

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CORAM : N.J. JAMADAR, J.
DATE : 4th October, 2021

PER COURT :

INTERIM APPLICATION NO. 2653 OF 2021

1. Heard Mr. Bohade, the learned counsel for the applicants and Mr. Diwan, the learned counsel for the appellant-respondent.
2. This application is preferred to allow the applicants to withdraw some amount from the amount deposited by the respondent-appellant, pursuant to the award in M.A.C.P. No. 123 of 2011, dated 5th March 2019, passed by the learned Member, Tribunal, Nashik.
3. By an order dated 18th July 2019, while staying the execution, operation and implementation of the award, this Court had permitted the respondents-applicants herein to withdraw 50% of the amount of compensation along with interest accrued thereon, without furnishing any security, subject to outcome of this appeal.
4. This Court had reserved liberty to the respondents-claimants to prefer appropriate application for withdrawal of further amount, to be decided, on its own merits.
5. Availing the aforesaid liberty, the applicants have preferred

this application.

6. It is averred that the applicant-claimant, having suffered 100% disability, is still bed-ridden and expenses are required to be incurred towards the medical treatment. On account of the situation which arose due to Covid-19 Pandemic, the applicant-claimant finds it difficult to make both ends meet.

7. Mr. Diwan, the learned counsel for the appellant resisted the prayer. It was submitted that this Court has already allowed the applicant to withdraw 50% of the amount of compensation along with interest accrued thereon. Thus, there is no justification for permitting further withdrawal. It was further submitted that in the event, the appeal is decided in favour of the appellant, the latter would be left in the lurch.

8. I have given consideration to the submissions advanced on behalf of the applicant and the appellant. The applicant claims that he has suffered 100% disability and is bed-ridden. The claim of the applicant that on account of the situation which arose due to Covid-19 Pandemic, the applicant finds it difficult to sustain himself, cannot be said to be unreasonable.

9. In the circumstances of the case, in my considered view, the requirements of the applicant can be met if he is allowed to

withdraw a further sum of Rs.7,00,000/-.

10. Hence, the following order :

ORDER

(i) The application stands partly allowed.

(ii) The applicant is permitted to withdraw a further sum of Rs.7,00,000/- out of the amount of compensation deposited by the respondent, without furnishing security, subject to outcome of this appeal.

The application stands disposed of.

Shraddha Talekar, PS

(N.J. JAMADAR, J.)