Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2638 OF 2015

IN

FIRST APPEAL [STAMP] NO.5789 OF 2015

Mugdha Mohan Oak and others.] Applicants

<u>IN THE MATTER OF</u>:

The New India Insurance Co. Ltd.] Appellant

Vs.

Mugdha Mohan Oak and others.] Respondents

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Mr. T.J. Mendon, for Applicants.

Mr. D.S. Joshi i/b Mr. D.R. Mahadik, for Appellant.

Mr. Rahul Mehta i/b K.M.C Legal Venture, for Respondent No.6.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 1st April, 2021.

P.C.

1. This is an application seeking withdrawal of the amount of compensation pursuant to a judgment and award dated 12th September, 2014 passed by the learned Member, M.A.C.T., Mangaon, District Raigad in M.A.C.P No.135 of 2010.

2. Learned Member of the Tribunal by the impugned judgment and award held that respondents No.1 to 4 are jointly and severally liable to pay Rs.37,48,499/-, *inter alia*, directing that the

liability shall be apportioned amongst respondents No.1 and 2, on one hand and respondents No.3 and 4, on the other hand, to the extent of 50% each.

3. Mr. Joshi, who holds for Mr. Mahadik, for the appellant, objects withdrawal of the amount of compensation.

4. Mr. Mehta, learned Counsel appearing for respondent No.6 seeks some time to take instructions.

5. The Tribunal held all the respondents jointly and severally liable, meaning thereby, they are joint tortfeasor and in view of the grounds made out in the application, the applicants are entitled to withdraw 50% amount of compensation deposited in the Tribunal.

6. At the time of withdrawal, all the applicants shall give undertakings that in case the appellant 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.

7. If the applicants do not file an undertaking at the time of withdrawing the amount of compensation, the amount deposited in the Tribunal 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.

8. After withdrawal of 50% amount of compensation, balance amount, if any, shall be invested in the fixed deposit, in any nationalized Bank, initially for a period of two years and thereafter it shall be renewed for a further period subject to orders passed by this Court.

9. Application stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]