

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2250 OF 2021
(For withdrawal)
FIRST APPEAL (ST.) NO. 18436 OF 2013

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1. Shakuntala Sadashiv Gaigawale
& 2 Ors. ... Applicants
Vs.
1. United India Insurance Co. Ltd.
& 3 Ors. ... Respondents

Mr. T.J. Mendon, Advocate for applicants.
Mr. Amol Gatane for respondents.

CORAM : N. J. JAMADAR, J.
DATE : 7th OCTOBER , 2021

P.C.:

1. Heard the learned counsels for the applicants and respondent No.1-appellant.
2. This application is preferred seeking permission to withdraw the amount of compensation deposited by the appellant in terms of the award in Application No.205 of 2001 dated 1st October 2012, passed by the learned Member, MACT, Mumbai, whereby the appellant, and the owner of the vehicle, were jointly and severally directed to pay a compensation of Rs.16,11,272/- along with interest @ 7.5% p.a., from the date of the application, till realization.

3. The applicants have made averments in the application in justification of the necessity of withdrawal of the amount. In the backdrop of the averments in the application and the prevailing circumstances, the claim of the applicants that they require the amount to support the necessities of life, can hardly be contested.

4. The learned counsel for the appellant resisted the prayer on the ground that there is a serious legal issue about the liability of the appellant to satisfy the award as the very fact that the offending vehicle was insured with the appellant, cannot be said to have been established.

5. The submission on behalf of the appellant, which touches the merits of the matter, can be considered while adjudicating the appeal finally. At this stage, having regard to the time lag from the date of accident and even the date of the impugned award, i.e., 1st October 2012, it would be expedient to allow the applicants to withdraw a substantial portion of the amount deposited by the appellant, subject to furnishing an undertaking to bring back the amount in the event, the appeal is allowed and it is held that the claimants are not entitled to the compensation.

6. Hence, the following order :

ORDER

(i) The application stands partly allowed.

(ii) The applicants are permitted to withdraw 75% of the amount of compensation along with interest accrued thereon in terms of the award dated 1st October 2012 passed in Application No.205 of 2001, subject to furnishing an undertaking before the MACT, Mumbai, to bring back the amount in the event, the appeal is allowed and it is held that they are not entitled to the compensation.

The application stands disposed of.

(N. J. JAMADAR, J.)