IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.2912 of 2021
in
FIRST APPEAL ST NO. 32455 OF 2018

Mr.Jaiprakash Mangesh Nadkarni
and ors . . Appellant
Versus
National Insurance Co.Ltd, thru
MBRO-II .. Respondent
…

Ms.Laxmi R. Thakur for applicant in IA 2912 of 2021
Mr. S.S. Dwivedi for the appellant

CORAM: BHARATI DANGRE, J.
DATED : 3rd DECEMBER 2021

P.C:-

1 By the present Application, the claimants (original respondents in the Appeal) are seeking withdrawal of the entire amount deposited by the appellants in the MACT, Sindhudurg in furtherance of the directions issued by this Court.

2 Heard learned counsel for the applicant and learned counsel for the respondent.

3 By the impugned judgment dated 6th July 2018 passed by the MACT, Sindhudurg in MACP No.24 of 2014, the claim petition was partly allowed and the respondents were jointly and severally held liable to pay to the petitioner compensation of Rs.19,54,800/-, including the amount of 'no fault liability' with interest @ 9% p.a. The amount was directed to be deposited equally between the two claimants.

4 The appellant deposited the entire decretal amount in furtherance of the order of this Court subject to which it was held entitled for stay to the effect and operation of the impugned judgment. An amount of Rs.28,37,820/- Is deposited in the Court on 21st August 2019 and it was invested in a Fixed Deposit in SBI, Sindhudurg for a period of one year.

5 Considering the exigencies expressed by the applicant in the application, since they are in dire need of the amount, on account of the death of their son, who was the only bread earner in the family, I am inclined to permit withdrawal of the amount. The Insurance Company who is represented by the learned counsel, however, submit that since the Appeal is filed on the ground that the Tribunal did not take into account the contributory negligence, the withdrawal should be restricted to 50%.

6 I find substance in the submission of the respective counsel and for the time being, in view of the exigencies expressed in the application, I permit withdrawal of 50% of the amount which has been deposited and invested in a Fixed Deposit in SBI on 20th September 2019. The 50% amount by calculating the interest accruing thereupon on the Fixed Deposit till the date of its withdrawal, should be permitted to be withdrawn and remaining 50% shall again be re-invested in the Fixed Deposit in the very same bank.

This withdrawal is however, subject to the undertaking being submitted by the claimants before the Tribunal that they shall remit the amount in case the Appeal is allowed with the interest, which this Court may levy at the relevant time.

7 Subject to the above, Interim Application is allowed in the aforesaid terms.

SMT. BHARATI DANGRE, J

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