

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2765 OF 2021
IN
FIRST APPEAL NO. 2431 OF 2011

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1. Smt. Sunita Rajendra Pawar
& 3 Ors. ... Applicants

In the matter between :

The New India Assurance Co. Ltd. ... Appellant

vs.

1. Smt. Sunita Rajendra Pawar
& 8 Ors. ... Respondents

Mr. Pritesh K. Bohade, for applicants/orig. respondents.

Mr. Shubham Misar i/b Adv. H.G. Misar for appellant and for respondent in IA.

CORAM : N. J. JAMADAR, JJ.

DATE : 7th OCTOBER , 2021

P.C.:

1. Heard the learned counsel for the applicants and the learned counsel for the respondent-appellant.

2. This application is preferred seeking permission to withdraw further amount of award dated 3-09-2010 in MACP No. 508/2006 passed by learned Member, MACT, Nashik, whereby the opponent Nos.1 and 2 thereto, were jointly and severally ordered to pay

compensation of Rs.4,50,000/- to applicant Nos.1, 2, 3 and 5, alongwith interest @ 8% per annum from the date of application till realization.

3. By an order dated 13th June 2011, while granting ad-interim stay to the execution and operation of the impugned judgment and award, upon deposit of the amount in terms of the award, the applicants were permitted to withdraw a sum of Rs.50,000/- only, without security.

4. In the application, the applicants have ascribed the reasons which constrained them to file application for withdrawal of further amount. In the backdrop of the situation in life, which the applicants find themselves in the prevailing circumstances, the claim of the applicants for withdrawal of more amount, cannot be said to be unreasonable. The applicants require the amount to meet the necessities of life.

5. The learned counsel for the respondent-appellant resisted the prayer of withdrawal.

6. The concern of the appellant-insurer can be addressed by directing the applicants-claimants to file an undertaking to bring back the amount in the event the appeal is allowed.

7. Hence, the following order :

O R D E R

(i) The applicants are entitled to withdraw 60% of the amount which stands to the credit of the applicants as of 1-10-2021, subject to furnishing an undertaking to bring back the amount in the event, the appeal is allowed and it is held that the applicants-claimants are not entitled to the compensation.

The application stands disposed of.

All concerned shall act on an authenticated copy of this order.

(N. J. JAMADAR, J.)