

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4042 OF 2021
IN
FIRST APPEAL NO. 376 OF 2021

Basawraj Baijanath Bhange & Anr. ... Applicants

IN THE MATTER OF :-

Bajaj Allianz Gen. Ins. Co. Ltd. ...Appellant

Versus

Basawraj Baijanath Bhange & Ors. ...Respondents

Mr. C. M. Lokesh i/by Mr. Tejpal S. Ingale, for the Applicants in Interim Application.

Mr. Tushar Bendale a/w Ms. Garima Joshi i/by GNP Legal for the Org. Appellant.

CORAM : N. J. JAMADAR, J.

DATE : 15th DECEMBER, 2021.

P.C.:

1. Heard the learned counsel for the applicant-original claimant and Respondent – insurer.
2. The learned counsel for the appellant-insurer resisted the prayer for withdrawal of the amount on the ground that the claimants are not the dependants and the deceased was riding the motorcycle without an effective and valid driving licence.
3. The contention on behalf of the appellant-insurer can be legitimately considered at the stage of final hearing of the appeal.

4. In the meanwhile, the applicants-claimants can be permitted to withdraw a portion of the amount of compensation subject to furnishing an undertaking to bring back the amount, in the event the appeal is allowed.

5. Hence, the following order:

: O R D E R :

- (i) The application stands partly allowed.
- (ii) The applicants-claimants are permitted to withdraw 50% of the amount of compensation along with interest accrued thereon, falling to their respective share, in terms of the impugned award in MACP No.597 of 2016, dated 8th January, 2020, passed by learned Member, MACT, Thane, subject to furnishing an undertaking before the Tribunal to bring back the said amount alongwith interest, at such rate as may be decided by this Court, in the event the appeal is allowed and it is held that the applicant is not entitled to compensation.
- (iii) The application stands disposed of.

(N. J. JAMADAR, J.)