Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.865 OF 2018

IN

FIRST APPEAL [STAMP] NO.16412 OF 2016

Kanta Ram Diva and another.] Applicants

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

The New India Assurance Co. Ltd.] Appellant

Vs.

Kanta Rama Diva and others.] Respondents

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Mr. Ramesh Chavanke, for Applicants.

Ms. Poonam Mital, for Respondent-Insurer.

Mr. Kuldeep Patil, for Respondent No.3.

.....

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 5th APRIL, 2021.

P.C.

1. This is an application seeking withdrawal of the entire amount of compensation deposited by the respondent-insurer under Award dated 29th October, 2015 passed by the learned Member, M.A.C.T, Vasai in M.A.C.P. No.109 of 2011.

2. Heard Mr. Chavanke, learned Counsel for the applicants.

3. Learned Counsel for the applicants submits that the appeal has been preferred only on the quantum of amount of compensation.

4. Learned Counsel for the applicants submits that the deceased was the only earning member of the family and after his death, the applicants have been suffering from severe financial difficulties. Applicant No.2 is unable to bear his education expenses. The applicants are now practically starving and have to pull on the life on the borrowed amount from friends and relatives.

5. The application though opposed by the learned Counsel for the respondent-insurer since the appeal is only on the quantum and looking to the dire need of the applicants, the applicants are permitted to withdraw an amount of Rs.10,50,000/- from the amount of compensation deposited by the respondent-insurer upon furnishing an undertaking at the time of withdrawing the amount before the Tribunal that if the respondent-insurer 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.

6. If the applicants do not file an undertaking at the time of withdrawing the amount of compensation, the amount deposited by the respondent-insurer 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.

7. If an amount of Rs.10,50,000/- is withdrawn by the applicants, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.

8. The application stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]