Uday S. Jagtap

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 67 OF 2019
IN
FIRST APPEAL NO. 806 OF 2019

Mrs. Asiya Amjad Khan & Ors. .. Applicants
In the matter between
Reliance General Insurance Co. Ltd. .. Appellant
Vs.
Mrs. Asiya Amjad Khan & Ors. .. Respondents

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Mr. Uday Mehta i/b Mr. D.S. Joshi for the applicants
Ms. Poonam Mital for the appellant – insurer
Mr. Mohammed Naved I. Mulla i/b Mr. Ibrahim H.A. Mulla for respondent nos. 2 and 3 in FA 806/2019

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 10th MARCH, 2021

P.C.

1. This is an application seeking withdrawal of the amount of compensation by the widow for herself and her two minor children deposited by the appellant in M.A.C.T., Mumbai.

2. Heard Mr. Mehta, learned Counsel for the applicants. It is submitted that applicant no.1 - widow of the deceased has no means of livelihood and is not in a position to earn anything as she is illiterate. The applicant nos. 4 and 5 are still prosecuting their studies. If their education is discontinued, it is submitted that their future will be ruined. It is also contended that applicant has taken hand loan of Rs.4 lakhs from their relatives.

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3. Learned Counsel for the appellant – insurer however objects withdrawal of the amount by stating that the appellant has a good case on merits.

4. Having considered the submissions at bar, at this stage, the applicant no.1 is permitted to withdraw 60% of the amount with accrued interest for herself and for welfare of her minor children – applicant nos. 4 and 5. The applicant no.1 shall furnish an undertaking within two weeks that if the appellant - insurer succeeds in appeal, the applicants shall refund the amount with interest at such rate as would be directed by this Court, depending upon the outcome of the first appeal.

5. If the applicant no.1 does not file an undertaking within the aforesaid period, the amount deposited by the appellant - insurer shall be invested by the M.A.C.T in a fixed deposit in any Nationalized Bank for a period of one year and thereafter for one more year again after obtaining order from this Court.

6. If 60% amount is withdrawn by the applicants, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.

7. The application stands disposed of.

(PRITHVIRAJ K. CHAVAN, J.)