Uday S. Jagtap

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4320 OF 2019
IN
FIRST APPEAL (ST.) NO. 31817 OF 2019

Bajaj Alliance General Insurance Co. Ltd. .. Applicant
Vs.
Smt. Surekha Vaman Darekar & Ors. .. Respondents

.....

Mr. D.S. Joshi for the applicant
None for the respondents

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 8th APRIL, 2021
(Through Video Conferencing)

P.C.

1. Mr. Joshi, learned Counsel for the applicant – insurer prays for staying the execution of the impugned judgment and award passed in M.A.C.P. No. 271 of 2015 by the M.A.C.T., Thane on 1st December, 2018 by contending that the execution proceedings have been taken out and if the award impugned is executed, the purpose of filing the appeal would be frustrated.

2. Mr. Joshi, learned Counsel for the applicant – insurer, on instructions, undertakes to deposit the entire amount with up-to-date interest in M.A.C.T., Thane within four weeks from today. Statement is accepted.

3. In view of the said statement, there shall be ad-interim relief in terms of prayer clause (a) of the application, which reads thus :-

"(a) Pending the hearing and final disposal of the appeal, this Hon'ble Court, by an order of stay, may kindly stay the operation, implementation and execution of the part of the impugned Judgment and Award dated 01/12/2018 passed by the Motor Accident Claims Tribunal, Thane in M.A.C.P. No. 271 of 2015."

4. If the applicant fails to deposit the entire amount within four weeks, ad-interim relief shall stand vacated without further reference to the Court.

5. After depositing the amount, the applicant shall inform the respondents-claimants about the factum of deposit within two weeks.

6. The respondents are at liberty to withdraw 50% of the amount that would be deposited by the applicant before the concerned M.A.C.T upon furnishing an undertaking within two weeks that if the appellant succeeds in the appeal, the respondents shall refund the amount with interest at such rate as would be directed by this Court depending upon the outcome of the first appeal.

7. If respondents do not file an undertaking within the aforesaid period, the amount that would be deposited by the applicant 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.

8. If 50% amount is withdrawn by the respondents, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.

9. The application stands disposed of.

(PRITHVIRAJ K. CHAVAN, J.)