Uday S. Jagtap

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3594 OF 2019
IN
FIRST APPEAL (ST.) NO. 28592 OF 2019

Mrs. Shaikh Tehseen Aslam & Ors. .. Applicants
In the matter between
Reliance General Insurance Co. Ltd. .. Appellant
Vs.
Mrs. Shaikh Tehseen Aslam & Ors. .. Respondents

.....

Mr. Ashish P. Agarkar i/b Mr. Suraj Sawardekar for the applicants
Ms.Kalpana R. Trivedi for the appellant – insurer

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 5th MARCH, 2021

P.C.

1. By an order dated 9th March, 2020, this Court (Coram : Smt. Bharati Dangre, J.) observed that the application seeking withdrawal of the amount of compensation does not give the details of the necessity for which the amount was sought to be withdrawn, *inter alia* directing the applicants to supply better particulars justifying the withdrawal of the amount deposited by the appellant - insurer.

2. Pursuant to the said directions, better particulars by way of affidavit of applicant – Tehseen Aslam Shaikh has been tendered.

3. Heard Mr. Agarkar, learned Counsel for the applicants. A bare look at the contents of the affidavit would show that this is not a

genuine affidavit showing average common expenses of the family members on much higher side in the light of the fact that the Tribunal has held the monthly income of the deceased as Rs.22,000/- per month, who was working as a Air Conditioner mechanic.

4. Nevertheless, learned Counsel for the applicants submits that in view of the fact that widow of the deceased has to look after 5 children, the applicants are permitted to withdraw 50% of the amount of compensation with accrued interest. The applicants 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 applicants do not file an undertaking within the aforesaid period, the amount deposited by the appellant - insurer shall be invested by the M.A.C.T, Thane in a fixed deposit in any Nationalized Bank for a period of one year and thereafter for one more year again after obtaining an order from this Court.

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 If 50% amount is withdrawn by the applicants, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.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