Uday S. Jagtap

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 873 OF 2019
IN
FIRST APPEAL (ST.) NO. 29442 OF 2018
A/W
CIVIL APPLICATION NO. 3769 OF 2018

Smt. Shila Vijay Jagtap & Ors. .. Applicants
In the matter between
The New India Assurance Co. Ltd. .. Appellant
Vs.
Smt. Shila Vijay Jagtap & Ors. .. Respondents

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Mr. Ghanasham S. Jadhav for the applicants
Ms. Poonam Mital for appellant – insurer

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 2nd FEBRUARY, 2021

P.C.

1. By this application, the applicants seek to withdraw the amount of compensation with accrued interest deposited by the appellant – insurer in M.A.C.T. Baramati.

2. The M.A.C.T., Baramati by judgment and award dated 23rd February, 2018 passed in M.A.C.P. No. 190 of 2015 awarded compensation of Rs.14,26,000/- with interest at the rate of 9% p.a. to the claimants from the date of filing of the application till its realization.

3. The applicant no.1 is the widow of the deceased and applicant nos. 2 to 4 are the legal representatives.

UDAY SHIVAJI JAGTAP Digitally signed by UDAY SHIVAJI JAGTAP Date: 2021.02.03 17:22:57 +0530

4. The learned Counsel for the applicants submits that the husband of applicant no.1 has died in a motor accident on 15th June, 2015 while travelling in a Maruti Car, bearing Registration No. MH-22C-0014. It is contended that he was the only earning member of the family. Because of the untimely accidental death of the deceased, the applicants are facing difficulties as they do not have any other source of income. The applicant no.4 is suffering from various diseases.

5. The learned Counsel for the appellant – insurer objects the prayer of the applicants.

6. Having considered the submissions, at this stage, 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 return the amount with interest at such rate as would be directed by this Court, depending upon the outcome of the first appeal.

7. 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 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 applicants, 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.)