Uday S. Jagtap

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2750 OF 2019
IN
FIRST APPEAL NO. 1209 OF 2019

Josna Gangaram Ghag & Ors. .. Applicants
In the matter between
New India Assurance Co. Ltd. .. Appellant
Vs.
Josna Gangaram Ghag & Ors. .. Respondents

.....

Mr. T. J. Mendon for the applicants
Ms. Poonam Mital i/b Mr. D.R. Mahadik for the appellant – insurer

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 2nd MARCH, 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. Mangaon, Dist. Raigad.

2. The M.A.C.T., Mangaon by judgment and award dated 18th November, 2015 passed in M.A.C.P. No. 09 of 2011 awarded compensation of Rs.8,10,500/- with interest at the rate of 7% 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 children and applicant no.5 is the mother of the deceased Gangaram, who died in vehicular accident.

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4. The learned Counsel for the applicants submits that the husband of applicant no.1 has died in a vehicular accident on 18th March, 2010 while travelling in a dumper being Registration No. MH-31-W-5782 towards Keladwadi. 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 and undergoing great deal of hardship and not in a position to spend any amount towards their day-to-day expenses.

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 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 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.)