IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

CIVIL APPLICATION NO.13416 OF 2021 IN FA/190/2021

VAISHALI SUNIL AMBEKAR AND OTHERS
VERSUS
THE TATA AIG GENERAL INSURANCE CO. LTD., THROUGH ITS LEGAL OFFICER, PUNE AND ANOTHER

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Mr. D.A. Bide Advocate for the Applicants.
Mr. Swapnil S. Patil, Advocate, Advocate for Respondent No.1

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 29th MARCH, 2022

PER COURT:-

1. It is an application for withdrawal of compensation amount filed by the applicants / original claimants.

2. Heard Mr. Bide, learned counsel for the applicants and Mr. Swapnil Patil, learned counsel for respondent no.1 / insurance company.

3. Mr. Bide, learned counsel for the applicants / claimants submitted that it is a death claim. The husband of applicant no.1 died in a motor vehicle accident, which took place on 21.12.2016. Even though, there is delay in loading F.I.R., it was not the fault of the family of the applicants / claimants. The deceased met with an accident at Baramti. The family of the applicants / claimants is

resident of Ahmednagar. As such, no blame can be put on the applicants / claimants for such delay. He submitted that the Tribunal has considered the defence raised on behalf of the insurance company and awarded the compensation amount by fastening the liability on the insurance company jointly and severally with the owner of the offending vehicle. He, therefore, urged to allow this application.

4. Mr. Swapnil Patil, learned counsel for respondent no.1 / insurance company strongly opposed to allow this application. He submitted that it is a case of false involvement of the vehicle, which is insured with respondent no.1 /insurance company at the time of the accident. He pointed out that one Vaibhav Jarad was an eye witness to the accident. It was a case of dash given by the unknown vehicle to the deceased and another Innova car has been planted only with a view to get the compensation. He further pointed out that the Tribunal has awarded exorbitant compensation. The insurance company has filed this appeal mainly on two grounds; (i) false involvement of the vehicle and (ii) exorbitant compensation awarded by the Tribunal. He, therefore, urged to reject this application.

5. I have considered the submissions of learned counsel for both the sides. Perused the impugned judgment and award passed in M.A.C.P. no. 422 of 2017 by the Member, M.A.C.T., Ahmednagar. The Tribunal seems to have awarded the compensation of Rs.52,49,000/- on account of death of the husband of applicant no.1. Respondent no.1 / insurance company has deposited the entire amount of compensation with interest in this Court amounting to Rs. 62,65,827/-. Applicant no.1 is a widow and she has responsibility on her shoulders to look after the education of applicant nos. 2 to 4. Equally, she is required to look after the old aged mother in law / applicant no.5.

6. Having regard to the submissions of both the sides and looking to the grounds raised on behalf of the insurance company, I am of the view to allow the applicants / claimants to withdraw 50% of the amount of compensation deposited by the insurance company in this Court, which would meet the ends of justice.

<u>ORDER</u>

(i) The application is hereby allowed as under:

(a) The applicants are permitted to withdraw 50% of the amount of compensation with accrued interest thereon deposited by respondent no.1 / insurance company in this Court on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

(b) Remaining 50% of the amount of compensation with accrued interest thereon shall be invested in the fixed deposit with any nationalized Bank initially for a period of one year with clause of renewal.

(ii) The civil application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane