

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.528 OF 2020
WITH
CIVIL APPLICATION NO. 209 OF 2015
IN
FIRST APPEAL NO. 528 OF 2020

The National Insurance Co.Ltd .. Appellant

Versus

Baban Bhiwa Bhoir and ors .. Respondents

...

Mr. Abbas Z. Mookhtiar for the appellant.

Mr.Rohan Darandale for the respondent.

CORAM: BHARATI DANGRE, J.

DATED : 28th MARCH, 2022

P.C:-

1 By the present Appeal, the National Insurance Company raises a challenge to the award and judgment dated 15/5/2014 passed by the MACT, Thane in MACP No. 474/2010.

2 The original claims to the petition being Mr.Baban Bhiwa Bhoir and Mrs.Sangeeta Baban Bhoir, parents of deceased Sanjay Bhoir who succumbed to an accident on 2/3/2010, which gave rise to a claim for compensation u/s.166 of the Motor Vehicles Act by his parents.

3 The Tribunal awarded compensation of Rs.14,73,000/- (including NFL amount of Rs.50,000/-) and the Insurance Company and the opponent party no.1 was directed to pay the said amount along with the interest @ 7% p.a. from the date of application till its realization. The amount was directed to be apportioned between the two applicants in the ratio of 50:50.

4 In furtherance of the said award, the Insurance Company deposited a sum of Rs.19,98,301/- before the MACT, Thane, and the Appeal was being prosecuted before this Court

 During the pendency of the Appeal, both the claimants who were impleaded as respondent nos.1 and 2 to the Appeal expired and in terms of the order passed by this Court on 21/3/2022, their legal heirs i.e. respondent nos.1a and 1b who are the married daughters of the deceased are brought on record.

5 The Insurance Company has entered into a compromise with the legal heirs of the original claimants and the consent terms signed by the Assistant Manager of the Insurance Company as well as the respondent nos.1a and 1b along with their Advocates are tendered on record. The identity of Mrs.Utkarsha Umesh Patil and Mrs.Chetana Chetan Gharat, who has signed the terms, has been established through their Aadhar Cards which are tendered in original and the Court Sheristedar has matched their identity. The photo copy of the Aadhar cards

are also placed on record.

The consent terms signed on 28/2/2022 are taken on record and marked 'X' for identification.

6 The settlement effected between the parties is to the effect that the legal heirs of the original claimants have agreed to forego the amount of Rs.Four lakhs, out of the compensation that has been deposited by the Insurance Company before the Tribunal, which would make them entitle for an amount of Rs.15,98,301/-. The claimants are also entitled for the interest on the said amount which has accrued till date of it's withdrawal.

The remaining amount according to the compromise, is permitted to be returned back to the Insurance Company along with the amount of statutory deposit which shall be remitted by this Court to the Tribunal.

7 The signatories to the consent terms agree an undertaking that upon receipt of the aforesaid amount, they shall have no further claim against the Insurance Company in respect of MACP No.474/2010 and the amount received shall be mared as full and final settlement of the original claimants and at their instance being legal heirs of the original claimants.

8 In the wake of the aforesaid settlement taken on record :-

(i) The MACT, Thane is directed to permit withdrawal of the amount of Rs.15,98,301/- by the legal heirs of the claimant i.e.

respondent nos.1a and 1b along with interest which has accrued on the said amount from the date of its deposit till date of its withdrawal.

(ii) The balance amount which is lying with the Tribunal shall be permitted to be withdrawn by the Insurance Company along with the amount of statutory deposit, which shall be remitted by this Court to the Tribunal. This amount shall also be remitted to the Insurance Company with the interest that has accrued.

(iii) The impugned judgment had directed investment of the amount in terms of direction.

However, in terms of the settlement that was effected between the parties, the respondent nos.1a and 1b shall be entitled to equal amount, which shall be paid through an A/c Payee Cheque from the Tribunal within a period of four weeks from today.

8 With the aforesaid direction, First Appeal stands disposed off.

In view of the disposal of the First Appeal, Civil Application No.209/2015 does not survive and is disposed off accordingly.

(SMT. BHARATI DANGRE, J.)