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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.19902 OF 2022

IN

FIRST APPEAL NO.301 OF 2021

Vandana Lahu Tulekar & Ors. ...Applicants

In the matter between

Shriram General Insurance Co. Ltd. ... Appellant

Versus

Vandana Lahu Tulekar & Ors. ...Respondents

WITH

INTERIM APPLICATION NO.2028 OF 2021

IN

FIRST APPEAL NO.301 OF 2021

Shriram General Insurance Co. Ltd. ...Applicants /
Appellants

Versus

Vandana Lahu Tulekar & Ors. ...Respondents

Mr. Pandit Kasar for the Applicant.

Mr. G.S. Jadhav, for Respondents in IA No.2028 of 2021 and
Applicant in IA No.19902 of 2022.

CORAM : R.I. CHAGLA J.

DATE : 21ST NOVEMBER, 2022.

ORDER :

1. Heard learned Counsel for the parties.
2. By the Interim Application No.19902 of 2022, the
Applicant is seeking withdrawal of the entire amount with accrued

interest deposited by the Appellant in First Appeal which had been awarded by the Motor Accident Claim Tribunal, (MACT) Khed – Rajgurunagar in M.A.C.P No.78 of 2017.

3. The Applicants have stated that the compensation which has been awarded was arising out of a vehicular accident under Section 166 of the Motor Vehicles Act, 1988. After recording evidence and hearing both sides the claim Petition was partly allowed by the Judgment and Award dated 1st March, 2021 by the MACT, Khed – Rajgurunagar by directing the Respondents to pay amount of Rs.42,44,170/- with proportionate cost and interest @ 7.5% p.a. from the date of filing of the claim petition till its full realization of the amount.

4. The First Appeal which has been filed challenging the said Judgment and Award dated 1st March, 2021 is yet to be admitted. By an order dated 1st July, 2022, this Court while hearing the stay application granted interim stay to execution of the decree subject to condition that the Appellant will deposit entire amount of compensation as awarded by the Tribunal.

5. It is mentioned in the Application that the Applicant No.4 in the original claim petition Mr. Balkrishna Nanabhau Tulekar

who was the father of the deceased had expired on 27th March, 2021. The death certificate is annexed at Exhibit B to the Interim Application. The present Applicants are the legal heirs of Applicant No.4. They are already on record. Thus formal relief for the Applicant No.4 is required.

6. The learned Advocate for the Appellant has stated that pursuant to the order dated 1st July, 2021 for deposit of the entire amount of compensation awarded by the Tribunal, the Appellant has deposited the said amount with interest.

7. In that view of the matter, considering that the MACT has awarded the compensation to the Applicants herein, they are entitled to withdraw 50% of the compensation awarded with accrued interest till the date of this order. The First Appeal is required to be admitted in view of the conditional order dated 1st July, 2021 of deposit having been satisfied by the Appellant. The Applicants are required to take steps for deletion of Applicant No.4 in the First Appeal who has expired. Hence, the following order:-

(i) The Applicants are permitted to withdraw 50% of the compensation amount with accrued interest awarded by the MACT, Khed – Rajgurunagar in M.A.C.P No.78 of 2017.

(ii) The Applicants shall make application before the MACT for withdrawal of the 50% of the compensation amount with accrued interest and MACT upon such application being made shall release the said amount to the Applicants within a period of two weeks from the making of the Application.

(iii) In the event 50% amount is withdrawn by the Respondents, balance amount shall be invested by the MACT in a fixed deposit in a Nationalized Bank.

(iv) Both the Interim Applications are disposed of accordingly.

(v) First Appeal is admitted.

(vi) Notice of final hearing is waived for the Respondents.

(vii) Call for the Record and Proceedings.

(viii) The paper book shall be filed within a period of one year from the date of this Order.

(ix) The Appellants shall take out application for deletion of the Respondent No.4 in the First Appeal, in view of his having expired.

(x) Liberty to the parties to apply.

[R.I. CHAGLA J.]