IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.594 OF 2022
IN
FIRST APPEAL NO.380 OF 2021

Vandana Rahul Kamble and Ors. .. Applicants

In the matter between

United India Insurance Company Ltd Appellant

Versus

Vandana Rahul Kamble and Ors. .. Respondents

…

Mr. D.D. Rananaware for the applicants.
Mr.Rahul Mehta i/b KMC Legal Venture for the appellant.

CORAM: BHARATI DANGRE, J.
DATED : 5th MAY, 2022

P.C:-

1 By the present Application, the applicants/original claimants seek withdrawal of the entire amount of compensation deposited by the Insurance Company in furtherance of the direction issued by this Court before the MACT, Mangaon, District Raigad.

It is informed that pursuant to the judgment delivered by the MACT, Mangaon on 25/3/2021, the claimants, i.e. the wife, two minor children and mother of the deceased

Sonubai Kamble, were awarded a compensation of Rs.79,67,500/- and the liability to pay compensation was fastened on the opponent nos.1 and 2 jointly and severally, the compensation carried the interest @ 5% from the date of institution of the petition till the realization of the amount.

2 It is informed that, as compliance of the impugned judgment, a sum of Rs.1,12,83,000/- came to be deposited by the appellant before the Tribunal and it is this amount which is sought to be withdrawn.

3 Heard learned counsel Mr.D.D. Rananaware for the applicant and learned counsel Mr.Rahul Mehta for the Insurance company. Mr. Mehta has objection to the withdrawal to the huge amount of compensation in the wake of the grounds on which the Insurance Company has assailed the impugned judgment.

The Application proceed to narrate the agony of the family which was dependent on Rahul Kamble, who succumbed to the accident on 3/1/2016 and the claimants include his wife who is the housewife, two minor children who are pursuing their education and mother who is aged 75 years. It is stated that the entire family was totally dependent on the deceased and he was their only source of income. The situation has become deplorable with no regular income being available to the claimants, particularly when the two minor children, aged 16 and 9, require substantial amount for pursuing their education, and to cover various expenses which include their extra curricular activities. Apart from this, the family also incur expenses for their day-to-day activities and despite the death of Rahul in the year 2016, they are still waiting their turn to receive the compensation and it is stated that the family was constrained to borrow had to literally borrow money from distinct sources and relatives with a promise to repay.

4 Considering the situation in which the applicants find themselves, interest of justice demand that they are permitted to withdraw 50% of the amount deposited before the Tribunal, to deal with the exigency arising out of loss of the sole bread earner of the family.

The Tribunal shall, therefore, permit withdrawal of the amount of Rs.56,41,500/-, upon the undertaking being submitted by the applicant no.1 and applicant no.4 to the Tribunal to the effect that if the Appeal is decided in favour of Insurance Company against them, and by the High Court, they shall bring back the amount along with the interest that will be determined at the time of final adjudication of the Appeal.

5 The withdrawal of the above amount, is subject to the following stipulation :-

(i) An amount of Rs.10 lakhs each shall be invested in Fixed Deposit in the name of two minor children i.e. applicant nos.2 and 3, through their guardian i.e. applicant no.1 in any Nationalized Bank for a period of five years.

(ii) The applicant shall be at liberty to withdraw the periodical interest accruing on the Fixed Deposit, in order to cater to the educational needs of the two children.

(iii) An amount of Rs.Five lakhs of the amount withdrawn shall be invested in the name of applicant no.4 in the Nationalized Bank for a period of three years, with liberty being granted to her to withdraw the amount of interest accrued on the Fixed Deposit, periodically.

(iv) The remaining amount shall be expended by applicant no.1 in the welfare and interest of the family which would include the educational expenses of the children as well as medical expenses of applicant no.4 who is aged 75 years as on date.

With the aforesaid direction being issued, IA is disposed off.

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5 Appeal is already admitted on 8/10/2021. Learned counsel Mr.Rahul Mehta waive notice for respondent nos.1 to 4.

The appellant is directed to file private paper book/ compilation of documents as directed by this Court in it's order dated 8/10/2021 within a period of six months from today. The printing of paper book is already dispensed with.

Subject to the aforesaid direction, parties are at liberty to circulate the Appeal for final hearing.

(SMT. BHARATI DANGRE, J.)

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