Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION NO. 390 OF 2022
IN
FIRST APPEALS NO. 66 OF 2017
WITH
MISC. CIVIL APPLICATION NO. 391 OF 2022

JUNAID ADMANI ….APPLICANT.

Versus.

NATIONAL INSURANCE CO. LTD.,
AND 7 OTHERS. ….RESPONDENTS.

Mr. Ajit R. Kantak, with Mr. Raunak R. Kantak, Advocates *for the Applicant.*

CORAM : M. S. SONAK, J.

DATE : 13th January 2023

P.C. : -

1. Heard Mr. Kantak for the Applicant

2. The Applicant is 20 years old. In terms of the order made by the Tribunal, certain amounts awarded to the Applicant towards compensation for the unfortunate demise of both his parents, were directed to be kept in fixed deposits and released to the Applicant upon his attaining the age of 21 years. The fixed deposit amount as of today, is ₹24,92,027/-. The Applicant would be entitled to this amount on 22/05/2023.

3. This Court, in First Appeals No. 66/2017 and 68/2017 , enhanced the compensation awarded by the Tribunal. Such enhanced compensation is deposited in this Court. The Applicant has a grievance about short deposit, for which liberty has been granted to the Applicant to take out appropriate proceedings. However, there is no dispute that from out of the amount deposited by the Insurance Company in this Court, the Applicant has already withdrawn an amount of ₹44,14,225-. An amount of ₹79,43,431/- lies deposited in this Court.

4. Considering the circumstance that both the Applicant's parents have died in the accident and further, the Applicant who is barely 20 years old has already withdrawn an amount of ₹44,14,225/-, the prayer for withdrawal of ₹75,00,000/- as prayed by Mr. Kantak, cannot not be accepted.

5. The Applicant has placed on record an allotment letter-cum-receipt from a builder "Shree Infra". This receipt refers to the Applicant paying an amount of ₹35,00,000/- to this builder for purchasing shop premises for a consideration of ₹1,02,90,000/-. At this stage, there is no point in going into the issue of authenticity or otherwise of the proposed transaction. Suffice to note that it would not be in the interest of the Applicant if a further amount of ₹75,00,000/- is released to the Applicant purportedly for purchase of the premises for undertaking a cloth business.

6. The earlier order made by the Tribunal about maintaining some amounts in the fixed deposits until the Applicant attains age of 21 years, was never challenged by the Applicant. At least, till the Applicant attains age of 21 years, it would not be appropriate to spend virtually the entire compensation amount awarded to the Applicant who, as noted earlier, is barely 20 years old.

7. These applications were pursued quite vigorously by the Applicant. The Applicant was also interviewed by me in the Chamber. From the interview, it did not appear that the Applicant was in a position to make decisions for himself. His relatives who are, no doubt, taken care of the Applicant all this while, appear to be making decisions for him. This is not to say that the relatives are not well-intentioned or that they do not have the Applicant's best interest at heart. Possibly, they may have his best interest at heart.

8. However, if the Applicant's plea for release of practically the entire compensation amount or, in any case, the substantial portion of the compensation, is agreed to at this stage, then, the

Applicant might be risking much. The Applicant did not appear to be in a position to decide all such matters by himself.

9. Considering the above aspects, it will be open to the Applicant to negotiate with the builder, if purchase of the premises is the real reason for seeking withdrawal and thereafter the builder is prepared to wait for some more time. Further, only if the builder agrees that he would wait at least up to June 2023 for receipt of the balance consideration, this Court would consider if the Applicant can be permitted to withdraw a further amount of ₹40,00,000/- for payment of this builder.

10. Liberty is granted to the Applicant to file a fresh application, if necessary, by impleading the builder as a respondent. Liberty is granted to file a fresh application for withdrawal after this position is clarified with the builder.

11. These Applications are disposed of, with liberty as aforesaid.

M. S. SONAK, J.

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