IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.161 OF 2023

Shriram General Insurance Company Limited … Appellant

V/s.

Kalyan Narayan Gawade and Ors. … Respondents

WITH
INTERIM APPLICATION NO.14805 OF 2023
IN
FIRST APPEAL NO.161 OF 2023

Kalyan Narayan Gawade … Applicant

V/s.

Shriram General Insurance Company Limited … Respondents

WITH
INTERIM APPLICATION NO.1659 OF 2023
IN
FIRST APPEAL NO.161 OF 2023

Shriram General Insurance Company Limited … Applicant / Appellant

V/s.

Kalyan Narayan Gawade and Ors. … Respondents

Mr. Pandit Kasar, Advocate for the Appellant.
Mr. Sujay Gangal, Advocate for Respondent No.1. and Applicant In IA/14805/2023.
Mr. Ghansham Jadhav, Advocate for Respondents Nos.2 and 3.

CORAM : RAJESH S. PATIL, J.

DATED : 31 OCTOBER 2023

P.C.:

INTERIM APPLICATION NO.14805 OF 2023

1. This Interim Application is filed by the original claimant for withdrawal of the amount deposited by the Appellant / Insurance Company before the concerned MACT.

2. It is the case of the Applicant that due to the unfortunate accident he has suffered 10% functional disability in respect of left leg. It is further case of the Applicant that huge amount of medical and incidental expenses has been incurred by him. The Applicant further submits that he has borrowed hand loans and financial assistance from friends and relatives. The Applicant further submits that he was in scrap business and was earning Rs.2,000/- per day. The Applicant further submits that the accident on occurred in the year 2012, the award was passed on 30 April, 2022. The Insurance Company has now filed an Appeal, it will take some time, for disposal. Therefore, he prays that he will allow to withdraw 60% the amount deposited by the Insurance Company.

3. I have heard both the sides and I have gone through the contents of the Interim Application. According to me, a case is made out to partially allow this Interim Application. The Appellant is permitted to withdraw 60% of the 'Award' amount deposited by the Insurance Company along with accrued interest in the impugned Judgment and Award.

4. The 60% of the 'Award' amount awarded to the Applicant is allowed to be withdrawn, upon furnishing an undertaking before the concerned MACT to the effect that if they fail in this First Appeal, they will return the amount with interest, at such rate as may be directed by this Court at the time of disposal of the First Appeal.

5. The Registry to see that the money is transferred.

6. Balance amount shall be invested in the fixed deposit of a nationalized bank initially, for a period of one year and thereafter for like period depending the pendency of this Court.

7. All the parties to act on an authenticated copy of this order. Issuance of certified copy of this order is expedited.

8. The Interim Application is accordingly disposed of.

INTERIM APPLICATION NO.1659 OF 2023

1. By order dated 20 February, 2023 this Court granted interim stay the impugned Judgment and Award dated 30 April, 2022. Subject to depositing the entire 'Award' amount along with accrued interest.

2. Since the Insurance Company has deposited the entire 'Award' amount along with accrued interest the Interim stay granted by this Court by order dated 20 February 2023, is extended till the disposal of the First Appeal.

3. Interim Application is accordingly disposed of.

FIRST APPEAL NO. 161 OF 2023

1. Parties have agreed that a short issue is involved in this matter therefore, matter can be disposed of at admission stage itself.

2. The Advocate for Respondent submits that they will file compilation of documents, short synopsis and preposition of law before the next date of the hearing.

3. Stand over to 4 December, 2023.

(RAJESH S. PATIL, J.)