



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

924 CIVIL APPLICATION NO. 2991 OF 2024
IN FA/926/2018

CHAYA VISHWAS SASANE AND OTHERS
VERSUS
NEW INDIA INSURANCE CO LTD THROUGH
ITS DIVISIONAL MANAGER AND ANR

.....
Advocate for Applicant : Mr. Dhakane Rajendra Babaji
Advocate for Respondents : Mr. Khutwad Manoj R.
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CORAM : Y.G. KHOBRAGADE, J.
DATE : 02.04.2024

PC.:-

1. Heard advocate Mr. Dhakane the learned counsel appearing for the original claimants in MACP No.466/2006.
2. The learned counsel for the applicants/original claimants vehemently submits that on 22.11.2022 this Court passed the judgment and order in first appeal no.926/2018 and directed the appellant original respondent no.1 and the present non-applicant no.2 to pay jointly and severally an amount of Rs.11,78,000/- inclusive of no fault liability, so also, additional amount of Rs.1,90,000/- with interest within a period of three months there from, however, non-applicant nos.1 and 2 who are the original respondents in claim petition have not complied said order, hence prayed for

issuance of directions.

3. Needless to say that the present applicants are original claimants in MACP No.466/2006. On 12.07.2011 the learned Member M.A.C.T., Ahmednagar passed the judgment and award and directed the respondent no.1 therein owner of vehicle to pay compensation to the tune of Rs.4,75,000/- (inclusive of no fault liability) with interest on it @ of 7.5% per annum from the date of the petition till its realization. Being aggrieved by the said judgment and award, respondent no.1-Sundarabai Rajendra Jaybhaye, the owner of the vehicle instituted first appeal no.926/2018 and on 22.11.2022 the Coordinate Bench of this Court (Coram: Sandipkumar C. More, J.) passed the judgment and award and partly allowed the first appeal. The operative part of the judgment reads as under:

ORDER

I) The appeal is hereby partly allowed and the judgment and award in M.A.C.P. No.466 of 2006 passed by the learned Tribunal is hereby set aside to the extent of exonerating present respondent No.6 – insurance company from the liability of paying compensation.

II) The appellant as well as respondent No.6 – insurance company shall jointly and severally pay the compensation of Rs.11,78,100/- inclusive of 'No Fault Liability' amount to the respondents – claimant Nos.1 to 2 and 5 alongwith interest @ 6% p.a. from the date of motor accident claim petition till its realization within three months from the date of this judgment.

III) The appellant and respondent No.6 – insurance company shall also jointly and severally pay the amount of Rs.1,90,000/-

(without any interest) to respondent Nos.1 to 3 and 5 in addition to the aforesaid amount of compensation within the same period.

IV) The amount of compensation, if paid earlier by the appellant, be deducted from the aforesaid amount.

V) Respondent Nos.1 to 3 and 5 shall pay the deficit court fees on the enhanced amount of compensation within two weeks after it is determined by the office.

VI) Pending civil applications, if any, stand disposed of accordingly.

VII) The appeal is accordingly disposed of.

4. Therefore, the judgment and award passed by this Court is amount to decree defined under Section 2(2) of the C.P.C. Therefore, the claimants / present applicants can execute the said order by filing the execution proceedings before the competent court, however, this court has no vested right either under C.P.C. or under the Bombay High Court Appellate Side Rules to execute its own judgment and decree.

5. In view of the above, this application is not maintainable and hence it is dismissed.

[Y.G. KHOBRADE, J.]