IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

60 CIVIL APPLICATION NO. 2120 OF 2024
IN FAST/36007/2023

PALLAVI NAGESH GARJE AND ORS
VERSUS
DNYANESHWAR SHIVAJI SURYAWANSHI AND ORS
...
Advocate for Applicant : Mr. A.N. Nagargoje
Advocate for Respondent 3: Mr. A.S. Usmanpurkar
...

CORAM : KISHORE C. SANT, J.
Dated : July 22, 2024

PER COURT :-

1. Heard the parties for long. This application is for withdrawal of amount deposited by the appellant/Insurance Company in this Court pursuant to the judgment and award passed by the learned Member, MACT, Beed in MACP No. 109/2013 dated 13.3.2023.

2. The learned advocate for the applicants/original claimants submits that the Trbunal by considering all the factors has rightly passed the judgment and order. The Court on considering the income of the deceased has come to the conclusion and has fixed the amount of compensation. Prima facie, there is no case made out that appeal would be allowed. The applicants, therefore, need not be deprived of the amount of compensation and prays that the application be allowed by directing the office to allow the applicants to withdraw the entire amount.

3. The application is vehemently opposed by the learned counsel for Insurance Company. He submits that the appeal is filed mainly on the

ground of non involvement of the vehicle in the accident. The accident took place on 4.6.2011 against unknown vehicle. For 4-5 days there was no report for identity of the offending vehicle. Thereafter, for the first time the statement of one Prakash was recorded, informing the number of the vehicle. The vehicle was seized after three and half months. Thus, it is clear that the vehicle in question was not involved. He further submits that the learned Member of MACT has taken the income of salary as it is without considering the compulsory deductions such as professional tax, income tax etc. and has fixed the amount of compensation. He pointed out from the appeal that the claim was lodged in the year 2014, evidence was not completed till 2021. The claim petition was not diligently prosecution and still the Insurance Company was directed to pay the interest. For that reason also, the amount is increased considerably and prays for rejection of application.

4. Considering that there is ground of non involvement of the vehicle raised in the appeal, this Court finds that it will not be safe to allow the applicants to withdraw the entire amount as prayed. This Court is, therefore, passing following order.

ORDER

(i) Applicant Nos. 1, 3 and 4 are allowed to withdraw 50% of their share alongwith accrued interest from the amount deposited by the Insurance Company in this Court on furnishing usual undertaking.

(ii) So far as applicant No. 2 is concerned, who is still minor, the amount to his share be invested in fixed deposit. Interest on such deposit be credited in the name of minor by transferring the same in the account of minor. Applicant No. 1 is authorized to operate the said account.

(iii) Remaining amount be invested in fixed deposit till disposal of the appeal.

The application is allowed and disposed of accordingly.

(KISHORE C. SANT, J.)

ssc/