



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 CIVIL APPLICATION NO.477 OF 2024
IN FAST/16973/2023

BABASAHEB RANGNATH MOKATE
VERSUS
CHOLAMANDALAM M.S GENERAL INSURANCE COMPANY
LTD AND OTHERS

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Advocate for Applicant : Mr. Andhale Sandip Ramnath.
Advocate for Respondent No.1 : Mr. A. S. Usmanpurkar.
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WITH

CIVIL APPLICATION NO.6956 OF 2023
IN FAST/16973/2023

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CIVIL APPLICATION NO.6957 OF 2023
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CORAM : S. G. MEHARE, J.
DATE : 12.01.2024

PER COURT :-

In Civil Application No.477 of 2024

1. Heard the learned counsel for the applicant and the learned counsel for respondent No.1.
2. It was a MACT claim. The MACT after considering the facts, awarded the compensation of Rs.6,11,700/- with 7% interest per annum. The present appellant/insurer has impugned the award mainly on the ground that the MACT has

erroneously passed an order to pay and recover for the vehicle which was not insured with it.

3. Learned counsel for the appellant would submit that MACT has imposed 25% responsibility upon the insurer for the original respondent No.3 only. However, the entire amount of compensation with interest has been deposited. He is opposing the application for releasing the entire amount.

4. Learned counsel for the applicant submits that since the order to pay and recover is passed, the applicant is entitled to entire amount deposited with this Court.

5. Perused the impugned order. There appears substance in the submissions of the learned counsel for the appellant/insurer that there was no contract between original respondent Nos.1 and 2 and the appellant. Therefore, the applicant would not be entitled to withdraw the entire amount. At the most, he may claim withdrawal for the amount out of 25% responsibility imposed upon the appellant/insurer.

6. In view of the above, the following order is passed :

ORDER

(i) Civil Application is partly allowed.

- (ii) The applicant is allowed to withdraw Rs.2,00,000/- only from the amount deposited by the appellant/insurer on the undertaking that he will re-deposit the money within eight (8) weeks if the judgment is reversed.
- (iii) Office to release the amount as above.

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- 7. Heard the respective learned counsels.
- 8. There is delay of 162 days in preferring the appeal. The learned counsel for the respondent opposed the application. However, for the reasons mentioned in the application, the civil application is allowed and delay is condoned.
- 9. Civil Application stands allowed.
- 10. Office to register the First Appeal.

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- 11. This is a application for stay. As per the legal requirement, the appellant/insurer has deposited entire amount of the award. Today, this Court has allowed to withdraw Rs.2,00,000/- to the original claimant. Since the legal compliance has been done, the interim protection by

granting stay to the impugned award by order dated 12.06.2023 is confirmed to the extent of present appellant only.

12. Civil Application is allowed.

13. Call R and P

14. Stand over to 05.03.2024.

(S. G. MEHARE, J.)

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vmk/-