IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 9969 OF 2024 (withdrawal)
IN
FIRST APPEAL STAMP NO. 4178 OF 2024

Geetanjali Santosh Kharat and Ors. … Applicants

IN THE MATTER OF :

Bajaj Allianz General Insurance Co. Ltd. … Appellant

Versus

Geetanjali Santosh Kharat and Ors. ... Respondent

WITH
INTERIM APPLICATION NO. 1481 OF 2024 (Delay)
IN
FIRST APPEAL STAMP NO. 4178 OF 2024

Bajaj Allianz General Insurance Co. Ltd. … Applicant

IN THE MATTER OF :

Bajaj Allianz General Insurance Co. Ltd. … Appellant

Versus

Geetanjali Santosh Kharat and Ors. ... Respondent

WITH
INTERIM APPLICATION NO. 1482 OF 2024 (Stay)
IN
FIRST APPEAL STAMP NO. 4178 OF 2024

Bajaj Allianz General Insurance Co. Ltd. … Applicant

IN THE MATTER OF :

Bajaj Allianz General Insurance Co. Ltd. … Appellant

Versus

Geetanjali Santosh Kharat and Ors. ... Respondent

.....

Ms. Rina Kundu, Advocate for the Applicant.
Mr. Sarthak Diwan, Advocate for Appellant.

CORAM : ARUN R. PEDNEKER, J.
DATED : 5th JULY, 2024.

P.C. :

1. Heard learned counsel for the applicant.

2. The present appeal is filed by the appellant - Insurance Company on the ground that the deceased was driving the insured vehicle and as such was not a third party within the meaning and he is not entitled for the insurance coverage. However, the Tribunal at paragraph No. 22 of the order of the Tribunal has specifically relying upon the charge-sheet being filed against another person has negatived the contention that the deceased himself was driving the vehicle.

3. The another ground raised by the learned arguing counsel for the appellant-Insurance Company is that there is breach of insurance policy. However, there is no such argument raised before the Tribunal and in any event, if such an argument is raised it would be prima-facie covered within the principle of pay and recover which could be applicable in such situation.

4. In view of the same, I permit the applicant to withdraw 70% of the compensation as directed by the Tribunal along with accrued interest subject to filing of usual undertaking to the satisfaction of the Presiding Officer of the Tribunal.

5. Interim Application No. 9969 of 2024 is disposed of.

6. Interim Application No. 1481 of 2024 is not on board. Upon mentioning taken on board. For the reasons mentioned in the Interim Application No. 1481 of 2024 for condonation of delay, the delay of 180 days is condoned and the application is allowed and disposed of.

7. Interim Application No. 1482 of 2024 for stay is not on board. Upon mentioning taken on board. The stay of the impugned order granted earlier stands confirmed till the final disposal of the appeal. Interim application No. 1482 of 2024 is disposed of.

8. The appeal is permitted.

9. Call R & P.

(ARUN R. PEDNEKER, J.)

SONALI SATISH KILAJE
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