
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL(L)NO.21003 OF 2024
WITH
INTERIM APPLICATION NO.13063 OF 2024
IN
FIRST APPEAL(L)NO.21003 OF 2024

Royal Sundaram General
Insurance Company Ltd

..Appellant/Orig.Insurer

Versus

1.Smt Rupal Sudhir Thanki
2.Kum.Devanshi S. Thanki
3.Kum.Dharini Sudhir Thanki
4.CNH Industrial (India) Pvt Ltd

..Original Applicant Nos.1 to 3.
..Original Opposite Party
Respondents

Mr. Nikhil Mehta i/b KMC Legal Venture, Advocates for the Appellant.

Mr.Uday Mehta, with Ms.Swati Mehta, Advocates for Respondent Nos.1 to 3.

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: SEPTEMBER 23, 2024

P. C.

1. The above First Appeal is filed by the Appellant-Insurance Company taking exception to the judgment and order dated 15th March 2024 passed by the Motor Accident Claims Tribunal, Mumbai in Application

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No.898 of 2013. By the impugned order, the MACT directed the Appellant as well as CNH Industrial (India) Pvt Ltd to jointly and severally pay a sum of Rs.1,92,45,000/- (inclusive of the amount of no fault liability) with interest @ 7.5% p.a. from the date of institution of the claim Petition till its realisation. Certain directions were also given with reference to investing certain amounts in the names of the minor daughters of the deceased. The operative part of the impugned order reads thus:-

“1. Application is partly allowed with proportionate costs.

*2. Applicant is entitled to get total amount of **Rs.1,92,45,000/- (Rs. One Crore Ninety Two Lakhs Forty Five Thousand Only)** inclusive of NFL amount by way of compensation along with interest @ 7.5% p.a. from the date of petition till its realization jointly and severally from opposite party and insurer.*

*3.The opposite party and insurer is jointly and severally liable to pay **Rs.1,92,45,000/- (Rs. One Crore Ninety Two Lakhs Forty Five Thousand Only)** inclusive of the amount of no fault liability with interest @ 7.5% p.a. from the date of institution of petition till its realisation. They are directed to credit the said compensation amount through RTGS/NEFT only in the bank account of this Tribunal as per following details.*

<i>Account Name</i>	<i>MOTOR ACCIDENT CLAIMS TRIBUNAL MUMBAI</i>
<i>Account No.</i>	<i>00000040777482356</i>
<i>IFS Code.</i>	<i>SBIN0030002</i>
<i>MICR Code.</i>	<i>400002273</i>

*4. **Apportionment Order is as under:***

- ***An amount of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) each** be invested in Fixed Deposit in any nationalised bank in the name of Applicant No.2 **and** 3 (Daughters of deceased). Said amount of deposit of applicant No.2 & 3 be paid to them on attaining majority through NEFT/RTGS.*

- *An amount of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) be invested in Fixed Deposit in any nationalised bank in the name of Applicant No.1 (Widow of deceased) for a period of 5 years. Said amount of deposit of applicant No.1 be paid to her on maturity through NEFT/RTGS.*
- *Remaining amount of compensation along with interest accrued on entire amount be paid to Applicant No.1 (Widow of deceased).*

*5. On deposit of said amount, Accounts Officer shall disburse the said amount by way of RTGS/NEFT to the Bank Account of the claimant(s) **as per apportionment order** on submitting their bank account passbook, photocopies duly verified by their banker against proper identification by following the procedure of Law and Rules.”*

2. The above Interim Application No.13063 of 2024 is filed seeking a stay of the impugned judgment and order dated 15th March 2024 passed by the MACT. The learned counsel appearing on behalf of the Appellant, on instructions, stated that the Insurance Company (the Appellant) shall deposit the entire amount of Rs.1,92,45,000/- together with interest @7.5% p.a. from the date of the claim Petition till the date of deposit. He sought six weeks time to deposit the aforesaid amount. The learned Counsel submitted that on the same being deposited, the execution and implementation of the impugned order be stayed.

3. On the other hand, the learned counsel appearing on behalf of the Original Applicants (Respondent Nos.1 to 3 herein) submitted that if the

execution of the impugned order is stayed, then, Respondent Nos.1 to 3 be permitted to withdraw the amounts as they have succeeded before the trial Court.

4. We have heard the learned counsel for the parties at some length. We have also perused the papers and proceedings in the Interim Application as well as in the above Appeal. Considering this is the First Appeal, the same is **admitted**. The Registry is directed to call for the record and proceedings. Preparation of the formal Paper Book is dispensed with. The Appellant is permitted to prepare and file Private Paper Book within a period of one year from today and serve a copy of the same on the advocates for Respondent Nos.1 to 3.

5. As far as the above Interim Application is concerned, the execution of the impugned judgment and order is stayed subject to the Appellant depositing in this Court the sum of Rs.1,92,45,000/- together with interest @ 7.5% p.a. from the date of filing of the claim Petition till the date of deposit within a period of six weeks from today. If the aforesaid amount is deposited, Respondent Nos.1 to 3 jointly and / or severally shall be entitled to withdraw 50% of the amount deposited on them furnishing a joint undertaking that they will bring back the aforesaid amount or any part

thereof along with interest at such rate as this Court may decide at the hearing of the Appeal. As far as the balance amount is concerned, the same shall be invested in any Nationalized Bank by the Registrar Judicial of this Court and shall abide by further orders passed in that regard. In the event the amount [as directed above] is not deposited, the stay granted by us shall stand automatically vacated and Respondent Nos.1 to 3 shall be at liberty to execute the impugned order dated 15th March 2024 in accordance with law.

6. The above Interim Application No.13063 of 2024 is accordingly disposed of. However, there shall be no order as to costs.

7. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]