

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

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Royal Sundaram General Insurance
Company Limited

...Applicant/Appellant

Versus

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

...Respondents

Mr. Nikhil Mehta *i/b KMC Legal Ventures for Applicant/Appellant-Insurance Company.*

Mr. T.R. Kale *i/b Mr.Uday Mehta with Swati Mehta, for Respondent Nos. 1 to 3.*

**CORAM: B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

Date : December 17, 2024

P. C.

1. Mentioned. Not on Board. With the consent of parties, taken on Board.

2. By our order dated 23rd September, 2024, we had directed that the execution of the judgment and order dated 15th March, 2024 (“***Impugned Judgment and Order***”) passed by the Motor Accident Claims Tribunal,

Mumbai (“**MACT**”) in Application No. 898 of 2013 be stayed, subject to the Appellant-Insurance Company depositing in this Court a sum of Rs. 1,92,45,000/- together with interest @ 7.5 % per annum from the date of filing of the Claim Petition till the date of deposit, within a period of six weeks from 23rd September, 2024.

3. Today, the matter is moved seeking an extension of time as the aforesaid deposit, as directed *vide* order dated 23rd September, 2024, is not yet made. The Learned Counsel appearing on behalf of the Appellant-Insurance Company submitted that he has got a cheque in the sum of Rs. 3,40,73,796/- which is a decretal amount together with interest @ 7.5 % per annum calculated from the date of the Claim Petition till 30th November, 2024. He submitted that he may be permitted to deposit this amount by tomorrow as compliance with the condition for stay of the Impugned Judgement and Order dated 15th March, 2024 passed by the MACT.

4. On the other hand, the Learned Advocate appearing on behalf of Respondent Nos. 1 to 3 submitted that since the deposit is being made today, further interest for the month of December would have to be calculated and which also should be directed to be deposited. The Learned Advocate appearing on behalf of the Appellant-Insurance Company stated that they

would deposit a further amount of interest of Rs. 1,20,281/- as interest for the month of December 2024 so that Respondent Nos. 1 to 3 have no grievance.

5. Considering the statement made by the Learned Advocate appearing on behalf of the Appellant-Insurance Company, he is permitted to deposit a cheque of Rs. 3,40,73,796/- in the Registry of this Court by tomorrow. Additionally, he shall deposit a sum of Rs. 1,20,281/- as interest for the month of December-2024, on or before 27th December, 2024.

6. In other words, the total amount that will be deposited by the Appellant-Insurance Company will be Rs. 3,41,94,077/-.

7. As per our order dated 23rd September, 2024, Respondent Nos. 1 to 3 will be jointly and severally entitled to withdraw 50% of the sum of Rs. 3,41,94,077/-, i.e., Rs. 1,70,97,039/-, on 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. It is needless to clarify that if any

amount is not deposited as directed by this order, the stay granted by the order dated 23rd September, 2024 shall stand automatically vacated and Respondent Nos. 1 to 3 shall be at liberty to execute the Impugned Judgment and Order dated 15th March, 2024, in accordance with law.

8. It is made further clear that Respondent Nos. 1 to 3 are at liberty to withdraw the amount of Rs. 1,70,97,039/-, without waiting for the Appellant-Insurance Company to deposit the interest for the month of December 2024 and which comes to Rs. 1,20,281/-.

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

10. 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.

[SOMASEKHAR SUNDARESAN, J.]

[B.P. COLABAWALLA]