IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.122 OF 2017

The Oriental General Insurance Company Limited, Nashik ...Applicant
Versus
Shri. Bharatsingh Kalsingh Paradke And Ors. ...Respondents

WITH
INTERIM APPLICATION NO. 7070 OF 2024
IN
FIRST APPEAL NO. 122 OF 2017

Bharatsingh Kalsingh Paradke ...Applicant
Versus
The Oriental General Insurance Co.ltd., Nashik ...Respondent

WITH
CROSS OBJECTION (ST) NO. 2336 OF 2022
IN
FIRST APPEAL NO. 122 OF 2017

The Oriental General Insurance Company Limited,
Nashik ...Applicant
Versus
Shri. Bharatsingh Kalsingh Paradke And Ors. ...Respondents

WITH
INTERIM APPLICATION (ST) NO. 3236 OF 2022
IN
CROSS OBJECTION (ST) NO. 2336 OF 2022

Bhartsingh Kalsingh Paradake ...Applicant
Versus
Oriental Insurance Company Limited ...Respondent

WITH
INTERIM APPLICATION NO. 2145 OF 2022
IN
FIRST APPEAL NO. 122 OF 2017

Shri. Bhartsingh Kalsingh Paradake ...Applicant
Versus
Oriental Insurance Company Limited ...Respondent

Mr. R.R. Varma a/w Mr. Sachin Suwase and Mr. Yogesh D., for the Applicant in WP/7070/2024 and Respondent Nos.1 and Appellant in FA/122/2017.
Mr. Rahul Mehta, for the Appellant in XOB (St)/2336/2022.

CORAM : G. S. KULKARNI & ADVAIT M. SETHNA, JJ.

DATE : 2 MAY 2025

P.C.:

1. This first appeal is directed against the judgment and order dated 5 August 2014 passed by the Member, Motor Accident Claims Tribunal, Nashik in M.A.C.P. No.406 of 2004 whereby the appellant Oriental General Insurance Co. Ltd. has been directed to pay the respondents the compensation amounts in terms of the following operative order as passed by the Tribunal:-

> *"[1] The petitioner is entitled to get compensation amount of Rs.41,34,600-00 (Rs. Forty One Lacs Thirty Four Thousand Six Hundred Only) excluding the amount under the head of "No Fault Liability".*
>
> *[2] Opponent Nos. 1 to 3, do pay compensation amount of Rs.41,34,600-00 (Rs. Forty One Lacs Thirty Four Thousand Six Hundred Only) to the petitioner, jointly or severally with interest @ Rs.7.5% per annum from the date of petition l.e. from 02/07/2004 till payment of the entire amount into the Court.*
>
> *[3] Opponent Nos. 1 to 3 do pay proportionate costs of the petition to the petitioner and shall bear their own.*
>
> *[4] Out of the amount payable to the petitioner, amount of Rs. 18,00,000/- (Rs. Eighteen Lacs Only) be invested in fixed deposit, in his name in any nationalized bank of his choice with the condition that the bank will not permit any loan or advance and interest on the said amount will be paid annually, directly to the petitioner till he survives. However, on an application by the petitioner this condition could be modified by the Tribunal in exceptional circumstances, if made out by the petitioner. Finally, after the death of the petitioner the amount be disbursed to his legal heirs on their application.*

> *[5] The remaining amount payable to the petitioner be paid to him by issuing account payee cheque.*
>
> *[6] Final Award be drawn accordingly."*

2. We are informed that the above amount has been deposited with the Registry of the M.A.C.T. by the appellant. By an order dated 10 July 2017 passed in Civil Application No.1226 of 2017, a co-ordinate Bench of this Court permitted the respondents to withdraw an amount of Rs.10 Lakhs. It was directed that balance of the awarded amount shall be invested by the Tribunal in Fixed Deposit in a Nationalised Bank initially for one year and renewable from time to time. It was directed that statutory amount of Rs.25,000/- deposited by the appellants be remitted by the Registry of this Court to M.A.C.T. for being invested in the Fixed Deposit.

3. Thereafter, a further order dated 5 April 2022 was passed on Interim Application No.2145 of 2022 whereby a co-ordinate Bench of this Court, considering the facts and circumstances as pleaded in the Interim Application, permitted further withdrawal of Rs.20 Lakhs without security and on furnishing an undertaking in the usual form. The learned counsel for the parties have placed on record a statement of the balance amount which is as on date lying deposited with the Registry of the M.A.C.T. after the withdrawal of the said amounts. Such amount is stated to be Rs.70,79,354/- along with accrued interest as on date, as per the statement as available with the Insurance Company. It is on such background, the proceedings are before us.

4. We may also note that cross-objection is filed by the claimants. The cross-objection has also been listed from time to time. There is a delay condonation application in the cross-objection praying for condonation of delay of 7 years, 5 months and 20 days in filing the cross-objection.

5. We have heard learned counsel for the parties on the earlier occasion. We also noted that the appellant - Insurance Company was ready and willing to permit the respondents to withdraw the entire amount, as and by way of settlement in the event, the respondent withdraws the cross-objection so that the proceedings can be put to an end finally.

6. Accordingly, the proceedings are before us today. The learned counsel for the respondent on instructions of Bharatsingh Kalsingh Paradke, respondent who is present through video conferencing states that the respondents are ready and willing to withdraw cross-objections and accordingly, the respondents be permitted to withdraw the same. In this view of the matter, Mr. Metha, learned counsel for the appellant – Insurance Company submits that the respondents can withdraw the entire balance amount which is lying deposited with the registry of the M.A.C.T.

7. In this view of the matter, appeal filed by the Insurance Company can also be disposed of. As the parties have reached to such consensus, it would not require further adjudication. The proceedings are accordingly disposed of in terms of the following order:-

ORDER

(i) Cross-objection (St) No.2336 of 2022 is permitted to be withdrawn.

(ii) Interim Application (St) No. 3236 of 2022 filed in the cross-objection does not survive.

(iii) Balance amount of compensation as noted above lying deposited with the Registry of M.A.C.T. be permitted to be withdrawn by the respondents along with full interest as accrued till the date of withdrawal.

(iv) The Registry of the MACT shall do the needful within a period of one week from the date of order being presented before the Competent Officer of the M.A.C.T.

(v) Needless to observe that the respondent is entitled to take the benefit of the TDS amount as the law may permit.

(vi) First Appeal No.122 of 2017 filed by the Insurance Company is also permitted to be withdrawn. It is accordingly disposed of.

(vii) Interim Application pending in the appeals would also not survive and stand disposed of. No costs.

(viii) Refund of Court fees in first appeal and cross-objection, as per rules.

[ADVAIT M. SETHNA, J.] [G. S. KULKARNI, J.]