

Future General Insurance Co. vs. Vijay Laxmi

FAO No.387 of 2019

14.07.2023

Present: Mr. Chandan Goel, Advocate, for the appellant.

Mr. Subhash Mohan Snehi and Ms. Niranjana, Advocates, for respondents No.1 to 4.

Respondents No.2 & 5 are minor represented through respondent No.4 his natural guardian.

Mr. Raj Kumar Negi, Advocate for respondent No.6.

CMP No.5025 of 2023

This application has been filed for release of amount of compensation falling in the share of respondent No.1, with prayer to remit the same in bank account of applicant/respondent No.4.

Along with the application, copy of Special Power of Attorney executed by respondent No.1 Vijay Laxmi, has been placed on record, which empowers respondent No.4 to make any statement, to receive money, cheque deposit and draw any money; and to give receipts thereof for the purpose of any proceeding on her behalf.

Special Power of Attorney does not entitle the applicant/respondent No.4 specifically to receive amount of compensation falling in share of respondent No.1 in his own account.

Faced with aforesaid situation, learned counsel for the applicant/respondent seeks time to file affidavit of respondent No.1, Vijay Laxmi, stating specifically therein that amount falling in her share be released, by remitting the same in the account of applicant/respondent No.4, Shyam Lal.

It is made clear that in case, such affidavit is filed by Vijay Laxmi, in that eventuality, an affidavit/undertaking has to be sworn by respondent No.4, Shyam Lal to refund the amount so

received to the appellant/Insurance Company in case in future, it is found that excessive amount has been released.

In view of the above, matter is adjourned, enabling Vijay Laxmi as well as Shyam Lal to file their respective affidavits/undertakings in respect of prayer made in this application.

List after four weeks.

CMP No.3773 of 2023

This application has been filed by applicant/respondent No.4 for releasing up-to-date interest accrued on the compensation amount falling in the shares of minor respondent No.2, Sujal and respondent No.5, Tarun.

It has been submitted on behalf of the applicants/respondents that applicant/respondent No.4 is grandfather of respondents No.2 & 5, who, after death of their father, are residing with their grand-parents, who are looking after and maintaining them and bearing expenses for their day-to-day needs including the expenditure being incurred on their education and the interest accruing on the compensation amount, is to be used for providing good quality education and rearing and caring expenses of minor respondents No.2 & 5.

Learned counsel for the non-applicant/appellant has submitted that amount of interest, as prayed, be paid only in the event of undertaking furnished by applicant/respondent No.4 to refund the same to the appellant/Insurance Company, in case, in future, it is found that the respondents/claimants were not entitled for that or it is found that excessive amount has been released in their favour.

Considering the rival contentions of the parties, up-to-date interest accrued on compensation amount falling in the shares of applicants/respondents No.2 & 5, is directed to be released in favour of applicant/respondent No.4, by remitting the same in his bank account mentioned in Para 5 of the application, after filing of affidavit/undertaking to the satisfaction of the Registrar General of this Court by the applicant/respondent No.4 to refund the same to the appellant/Insurance Company, in case, in future, it is found that amount so released, is to be refunded to the Insurance Company.

Application stands disposed of.

(Vivek Singh Thakur)
Judge

14th July, 2023
(reena)