

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1604 OF 2015
IN
FIRST APPEAL (ST) NO.29586 OF 2014**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr.A.S.Vidyarthi for the applicant

CORAM : K.K.TATED, J.
DATED : 28/04/2015

PC:

- 1 Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.
- 2 This application is preferred by Insurance Company for stay of the judgment and award dated 31.12.2013 passed by MACT, Satara in MACP No.440 of 2009 awarding the sum of Rs.23,29,112/- by way of compensation with 6% interest in favour of respondents claimants.
- 3 The learned counsel for the applicant submits that they are ready and willing to deposit entire decretal amount in the Tribunal within 4 weeks from today. He submits that he has mentioned the matter for urgent circulation because if there is delay on their part they have to bear interest.

4 Considering the submissions made by the learned counsel for the applicant and the averments made in Civil Application, I am satisfied that the applicant has made out a case for allowing Civil Application.

5 In the present proceeding, in an accident which occurred on 19.9.2009 applicant no.1 lost her husband, Arun Shankar Kokate. On the date of accident he was working as a Canal Inspector in Dhoni Irrigation Department and earning Rs.11,395/- per month. On the basis of these facts, respondents claimants filed application under section 166 of the Motor Vehicle Act claiming compensation of Rs.27,36,680/-.

6 In the present proceeding there is a delay of 171 days in preferring First Appeal. Considering these facts, as order is passed without issuing notice to the respondents claimants, I am of the opinion that claimants are entitled to withdraw some amount without furnishing any security and with liberty to prefer appropriate application for withdrawal of further amount and that application be decided on its own merits. Hence, following order:

a) Operation and implementation of the impugned judgment and award 31.12.2013 passed by MACT, Satara in MACP No.440 of 2009 is

stayed on the condition that applicant to deposit entire awarded amount including interest and cost in the Tribunal within four weeks from today, failing which Civil Application shall stand dismissed without referring back to the court.

b) If amount is not deposited within stipulated time as stated hereinabove, respondents claimants are entitled to prefer appropriate proceeding for recovery of entire awarded amount.

c) If the amount is deposited within stipulated time as stated hereinabove, respondents claimants are entitled to withdraw following amount without furnishing any security:

(i) Sushama Arun Kokate, claimant no.1 is entitled to withdraw Rs.3.0 lacs with accrued interest.

(ii) Gangubai Shankar Kokate, claimant no.4 is entitled to withdraw Rs.1.0 lacs/- with accrued interest.

(d) Tribunal is directed to invest remaining amount in Fixed Deposit of any nationalised bank initially for a period of one year and same be continued till the hearing and final disposal of First Appeal.

(e) Claimant no.1, Sushama Arun Kokate is entitled to withdraw quarterly interest on fixed deposit of amount for the benefit of two minor children.

f) Liberty granted to the respondents claimants to prefer appropriate application if they so desire for withdrawal of further amount and that application be decided on its own merits.

g) Civil application stands disposed off accordingly.

(K.K.TATED, J.)