

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

CIVIL APPLICATION NO.924 OF 2015

IN

FIRST APPEAL (ST). NO.5758 OF 2015

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.D.R.Mahadik for the applicant

CORAM : K.K.TATED, J.

DATED : 02/03/2015

PC:

1 Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent order.

2 This application is preferred by Insurance Company for stay of the operation and implementation of the judgment and award dated 26.09.2014 passed by MACT, Mangaon, Dist. Raigad in MACP No.74 of 2011 holding that the respondents claimants are entitled compensation of Rs.11,43,000/- with 7.5% interest p.a.

3 The learned counsel for the applicant submits that they have already deposited entire decreetal amount in the Tribunal today only. Statement is accepted.

4 The learned counsel for the applicant submits that the respondent claimants filed Execution Application No.22 of 2014. He submits that if the entire amount is recovered by the respondents claimants in Execution Application No.22 of 2014, nothing will survive in the present proceeding. He further submits that in the present proceeding the driver of the offending vehicle was not holding a valid license and therefore, Insurance Company is not liable to pay any compensation. He submits that these facts are not considered by the Tribunal at the time of awarding compensation.

5 In the present proceeding the deceased Prabhakar Bhoir died in an accident which occurred on 9.01.2011. At that time, he was earning Rs.5000/- per month as he was working in Colour Chem Company as contract labour. At the time of death, he was 30 years old. On the basis of these facts, respondents claimants filed application under section 166 of the Motor Vehicles Act claiming compensation of Rs.8 lacs. Claimant no.1 is wife of deceased. Claimant nos.2 and 5 are children whereas claimant nos.3 and 4 are parents. Though the applicant raised objection about the liability to pay compensation on the ground that the driver of the offending vehicle was not holding valid license, the Tribunal in paragraph 22 of the

impugned judgment rightly held that the Insurance Company can recover the said amount from the owner of the offending vehicle.

6 Considering these facts, I am of the opinion that at present, respondents claimants are entitled to withdraw some amount without furnishing any security. Hence, following order:

(A) Operation and implementation of the judgment and award dated 26.09.2014 passed by MACT, Mangaon, Dist.Raigad in MACP No.74 of 2011 is stayed till further orders.

(B) Respondents claimants are entitled to withdraw amount without furnishing any security as under:

- a) Smt.Payal Prabhakar Bhoir – Rs.2,00,000/- with accrued interest.
- b) Mr.Parshuram Daulat Bhoir - Rs.74,000/- with accrued interest.
- c) Sou.Pramila Parshuram Bhoir - Rs.75,000/- with accrued interest.

(C) 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 further orders.

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

(E) The Registry of this Court is directed to transfer the sum of Rs.25000/- if any deposited by the Insurance Company at the time of filing of First Appeal along with accrued interest to the Motor Accident Claims Tribunal, Raigad in the account of M.A.C.P. No. 74 of 2011.

(F) Civil Application is disposed of accordingly.

(K.K.TATED, J.)