

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

**CIVIL APPLICATION NO.1009 OF 2015
IN
FIRST APPEAL (ST). NO.6321 OF 2015**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
---	----------------------------

Mr.M.M.Sathaye for the applicant

CORAM : K.K.TATED, J.
DATED : 05/03/2015

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 operation and implementation of the judgment and award dated 19.6.2014 passed by MACT, Pune in MACP No.492 of 2007 holding that the respondents claimants are entitled Rs.1,45,500/- with 8% interest p.a. by way of compensation.
- 3 The learned counsel for the applicant submits that the respondents claimants filed Execution Application No.310 of 2014 for recovery of the entire amount. He submits that if the entire

amount is recovered by the respondents claimants in Execution Application, nothing will survive in the present proceeding.

4 The learned counsel for the applicant submits that he received instructions from the Insurance Company that they are ready and willing to deposit entire decretal amount in the Tribunal within four weeks from today.

5 Statement is accepted.

6 In the present proceeding, in an accident which occurred on 16.11.2006 in which Wilson Menezes was injured and later on expired. On the date of accident, he was 19 years old serving with M/s.Fair Deal Car Care Centre, Dhanori, Pune as a helper and earning Rs.2500/-p.m. On the basis of these facts, respondents claimants filed application under section 166 of the Motor Vehicles Act claiming compensation of Rs.3 lacs. The Tribunal considering the evidence on record awarded 1,45,500/- with 8% interest p.a. by way of compensation. Considering these facts, I am of the opinion that the claimant nos.1, 3 and 4 are entitled to withdraw some amount without furnishing any security. Hence, following order:

(a) Operation and implementation of the judgment and award dated 19.6.2014 passed by

MACT, Pune in MACP No.492 of 2007 is stayed till the hearing and final disposal of the First Appeal on the condition that applicant to deposit entire decretal amount with 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 execute the award according to law.

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

(i) Claimant No.1, Smt.Kavita Wilson @ Vincent Menezes - 15% of total compensation

(ii) Claimant No.3, Joseph Fransis Menezes – 5% of total compensation

(iii) Claimant No.4, Mrs.Merry Joseph Menezes – 5% of total compensation

(e) Rest of the amount be invested by the Tribunal 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 the First Appeal.

(f) 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.

(g) Civil Application is disposed of accordingly.

(K.K.TATED, J.)