

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1210 OF 2015
IN
FIRST APPEAL ST.NO.7965 OF 2015

Royal Sundaram Alliance Insurance co. Ltd. .. Appellant
-Versus-
Jayashri Navnath Lohote & Ors. .. Respondents

Mr.Manoj Badgujar i/b. A.P.Kulkarni for appellants

CORAM : K.K.TATED, J.

DATE : 20th March 2015.

P.C.

1] Not on board. At the request of learned Advocate for appellant taken on board for urgent orders.

2] Learned Counsel for the applicant submits that the respondents claimants have filed execution application for recovery of awarded amount in MACT Claim Petition No.838 of 2013. He submits that if the entire amount is recovered by the claimants, nothing will survive in the first appeal.

3] This application is for stay of the judgement and award dated 26th November 2014 passed by the MACT, Pune in MACP No.838 of 2013, awarding a sum of Rs.19,53,000/- with 7.5 % interest to the respondents claimants by way of compensation.

4] The learned Counsel for the applicants submits that the respondents claimants have failed to produce on record any documentary proof to show that the deceased was working as Driver and was getting a salary of Rs.7000/- per month. The learned Counsel for applicant submits that the compensation awarded by the tribunal is on higher side. The learned Counsel for the applicants submits that in the interest of justice, this Court be pleased to stay the operation and implementation of the impugned judgement and award till further orders. He submits that he has instructions from the applicants that the applicants are ready and willing to deposit the entire awarded amount in Tribunal within four weeks.

5] In the present proceedings, the accident which occurred on 28th August 2013 in which Navnath Lohote died. The deceased was

33 years of age at the time of accident and was working as a driver. He was drawing a salary of Rs.7000/- per month. On the basis of these facts the respondents claimants filed an application under section 166 of Motor Vehicles Act for compensation of to Rs.20 lakhs. Considering the evidence on record, the Tribunal awarded Rs.19,53,000/- by way of compensation. The claimant No.1 is widow of the deceased. The claimant Nos. 2 and 3 are minor children and claimant Nos. 4 and 5 are parents of the deceased. Considering the fact that the applicant Nos. 2 and 3 are minor children and claimant Nos. 4 and 5 are senior citizen, I am of the opinion that at present claimants are entitled to withdraw some amount without furnishing security.

6] Hence, the following order:-

(a) The operation and implementation of the impugned award dated 26th November 2014 passed by the ad-hoc Dist.Judge -I, in MACP No.838 of 2014 is stayed on the condition that the applicants deposit the entire decretal amount with accrued interest and costs in the Tribunal within four weeks from today, failing which

the civil application to stand dismissed without reference to court;

(b) If amount is not deposited as stated above, the respondents claimants are entitled to execute the award in accordance with law;

(c) If the amount is deposited within the stipulated time, the claimants are entitled to withdraw amounts with accrued interest as mentioned below without furnishing security but subject to outcome of first appeal:-

(i)	Jayashree Navnath Lohote	Rs.3 lakhs
(ii)	Dashrath Dagdu Lohote	Rs.75,000/-
(iii)	Asha Dashrath Lohote	Rs.75,000/-

(d) The tribunal is directed to invest the remaining amount in fixed deposits of any nationalised bank initially for a period of one year and to be renewed from time to time till final disposal of the appeal;

(e) Liberty is granted to respondents claimants to prefer

appropriate application for withdrawal of further amounts if they so desire. If such an application is made the same will be decided on its own merits.

(f) Civil application is disposed of accordingly.

(K.K.TATED, J.)

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FIRST APPEAL ST.NO.7965 OF 2015

Royal Sundaram Alliance Insurance co. Ltd. .. Appellant
-Versus-
Smt. Jayashri Navnath Lohote & Ors. .. Respondents

Mr.Manoj Badgujar i/b. A.P.Kulkarni for appellants

CORAM : K.K.TATED, J.
DATE : 20th March 2015.

P.C.

- 1] Not on board. At the request of learned Advocate for the appellants taken on board for urgent orders.
- 2] The appellants are directed to remove office objections on or before 31st March 2015 failing which the first appeal to stand dismissed without reference to court.
- 3] If office objections are removed, the office is directed to place the matter on board for admission on 10th April 2015.

(K.K.TATED, J)