

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

**CIVIL APPLICATION NO. 460 OF 2015
IN
FIRST APPEAL (ST.) NO. 14193 OF 2014**

New India Assurance Co. Ltd. ... Applicant.
V/s.
Manisha Arun Nikam & Ors. ... Respondents

Mr. D.S. Joshi for the applicant.

**CORAM : K. K. TATED, J.
DATED : 05/02/2015.**

PC.:

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

2 The learned Counsel for the applicant submits that the respondent claimants filed execution application no. 20 of 2014 for recovery of the entire awarded amount before the Tribunal. He submits that if entire amount is recovered in execution application, nothing will survive in the present proceeding. Hence, there is urgency.

3 This application is preferred by original respondent no.2 Insurance Company for stay of operation and implementation of Judgment and Award dated 30.07.2013 passed by the Motor Accident Claims Tribunal, Satar in M.A.C.P. No. 215 of 2010, by which the Tribunal awarded compensation of Rs.12,96,400/- with 8 % interest in favour of the respondents-claimants.

4 The learned Counsel for the applicants submits that in the present proceeding they are challenging the quantum of the compensation to the tune of Rs.10,36,800/-.

5 The learned Counsel for the applicants submits that the Tribunal erred in coming to the conclusion that the respondents claimants are entitled for compensation of more than Rs.10 lacs. The deceased was earning only Rs.900/- per month.

6 On the basis of this submissions, the learned Counsel for the applicants submits that they have good chance of success in the present proceeding. He submits that in the interest of justice, this court be pleased to stay operation and implementation of Judgment and Award dated 30.07.2013 passed by the Motor Accident Claims Tribunal, Satara till the hearing and final disposal of the First Appeal.

7 The learned Counsel for the applicants submits that he received instructions from the insurance company that they are ready and willing to deposit the entire decretal amount in the Tribunal within four weeks from today. Statement is accepted.

8 In the present proceeding, the respondent no.1 lost her husband in accident which occurred on 22.02.2010. He was 23 years old and was earning more than Rs.12,000/- per month. The claimant nos. 2 & 3 are minors and claimant nos. 4 & 5 are the parents of the deceased, who are Senior citizen.

9 Considering this fact and reasons given by the Tribunal, I am of the opinion that claimants are entitled to withdraw some amount without furnishing any security.

10 As this Civil Application is decided without issuing notice to the respondents claimants, liberty granted them to take out appropriate application, if they so desire, for withdrawal of the further amount and that application will be decided on its own merits.

11 Hence, the following order.

a) The operation and implementation of Judgment and Award dated 30.07.2013 passed by the Motor Accident Claims Tribunal, Satar in M.A.C.P. No. 215 of 2010, is stayed till further orders on condition that applicant to deposit entire decretal amount including interest with cost, if any, 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 deposited within stipulated time as stated herein above, the respondent claimant no.1 Manisha Arun Nikam, is entitled to withdraw Rs.3,00,000/- with interest without furnishing any security.

c) The Respondents-claimants nos. 4 and 5 Shri. Dadaso Dagdu Nikam and Sou. Sushila Dadaso Nikam are entitled to withdraw sum of Rs.1,00,000/- each with interest without furnishing any security.

d) The Tribunal is directed to invest the remaining amount in Fixed deposits of any Nationalised Bank, initially for the period of one year and same to be continued till further orders.

e) Liberty granted to the respondents-claimants to take out appropriate application, if they so desire, for withdrawal of further amount and that application will be decided on its own merits.

f) Civil Application is disposed of accordingly.

(K.K.TATED, J.)