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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4405 OF 2013
IN
FIRST APPEAL (ST).NO.16904 OF 2013

National Insurance Co. Ltd. ... Applicant

V/s.

Smt. Haseena Musa Pathan & Ors. ... Respondents

Mr.Rahul Mehta i/b. M/s.KMC Legal Venture for applicant.

CORAM : K.K.TATED, J.

DATED : 13th March 2015.

PC.

1] Heard learned Counsel for the applicant. Though the respondents are duly served, no one appears on their behalf when the matter was called out today.

2] This application is preferred by the Insurance company for condonation of 118 days delay in filing the first appeal challenging the judgement and award dated 30th August 2012 passed by Motor Accidents Claim Tribunal Kalyan in Claim Petition No.192 of 2004.

3] Considering the submissions made by the learned Counsel for the

applicant and reasons disclosed in paras 5 to 7 I am satisfied that the applicant has made out a case for allowing the application.

4] Civil application is allowed in terms of prayer clause (a), which reads as under:-

“(a) The delay in filing the appeal of about 118 days be condoned”.

4] Application is disposed of.

(K.K.TATED, J)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4406 OF 2013
IN
FIRST APPEAL (ST).NO.16904 OF 2013

National Insurance Co. Ltd. ... Applicant

V/s.

Smt. Haseena Musa Pathan & Ors. ... Respondents

Mr.Rahul Mehta i/b. M/s.KMC Legal Venture for applicant.

CORAM : K.K.TATED, J.

DATED : 13th March 2015.

P.C.

1] Heard the learned Counsel for the applicant. This application is preferred by the Insurance Company for stay of operation and implementation of the impugned judgement and award dated 13th August 2012 passed by the Motor Accidents Claim Tribunal in Claim Petition No.192 of 2004 holding that the respondents – claimants are entitled to Rs.6,72,000/- with 7% p.a. interest by way of compensation.

2] The learned Counsel for applicants submits that they have already deposited the entire decretal amount in tribunal.

3] Learned Counsel for the applicants submits that during the

pendency of the present civil application, this Court be pleased to stay the impugned award dated 30th August 2012 passed by the Tribunal. He submits that if the entire amount is withdrawn by the respondents/ original claimants, nothing will survive in the present proceedings. He submits that in the present proceedings, the Tribunal awarded compensation in favour of respondents/ claimants on higher side. He submits that the tribunal ought to have held that the insurance company is not liable to pay any compensation.

4] Hence, following order:-

(a) The operation and implementation of the impugned judgement and award dated 30th August 2012 passed by Motor Accidents Claim Tribunal, Kalyan in Motor Accident Claim No.192 of 2004 is stated till the hearing and final disposal of the first appeal;

(b) Liberty is granted to the respondent claimants to prefer an application for withdrawn of the amount, if they so desire. If such an application is made the same shall be decided on its own merits and in accordance with law.

(c) The Tribunal is directed that the amount deposited by the appellant be invested in fixed deposit of any nationalised bank initially for a period of one year and the same shall be continued to be renewed from time to time till final disposal of the first appeal.

6] Office is directed to transfer the sum of Rs.25,000/- deposited by the applicant along with accrued interest, if any, to the Motor Accidents Claim Tribunal, Kalyan in the account of Motor Accident Claim No.192 of 2004.

7] Application is disposed of accordingly.

(K.K.TATED, J)