

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

**CIVIL APPLICATION NO.3233 OF 2012
IN
FIRST APPEAL (ST) NO.21078 OF 2012**

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.A.B.Gatne for the applicant

Mr.Vikas Kolekar for the respondent nos.1 to 3

**CORAM : K.K.TATED, J.
DATED : 11/02/2015**

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by Insurance Company for stay of the operation and implementation of the impugned judgment and award dated 13.1.2012 passed by MACT, Pune in MACP No.931 of 2009.
- 3 The learned counsel for the applicant submits that as per order dated 23.11.2012 passed by this court, they have already deposited entire decretal amount in the Tribunal.
- 4 Statement is accepted.
- 5 In the present proceeding, the respondent

no.1 lost her husband. On the date of accident, he was 40 years old. He was earning monthly salary between Rs.35,000/- to Rs.45,000/- per month. On the basis of these facts, the trial court held that claimants are entitled sum of Rs.43,18,333/-. Claimant no.1 is household wife. Claimant no.2 is a minor and claimant no.3 is a mother of the deceased.

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

A) Civil Application is allowed in terms of prayer clause (b) which reads thus:

“(B) Your Lordship be pleased to stay the execution, operation and implementation of the impugned Judgment and order/Award dt.13/1/2012, passed by Member, M.A.C.T. PUNE, Dist.:PUNE in M.A.C.P. No.931/2009, U/Sec.166 of the M.V.Act, 1988; till the final hearing and disposal of the First Appeal, as against the Applicant.”

B) Claimants are entitled to withdraw following amounts without furnishing any security at

present subject to the decision and outcome of the First Appeal:

- a) Claimant no.1, Vaishali Umesh Deshmukh is entitled to withdraw 15% amount.
- b) Claimant no.3, Pushpa Subash Deshmukh is entitled to withdraw 15% amount.
- 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 the hearing and final disposal of First Appeal.
- D) Liberty granted to the claimants to prefer appropriate application if they so desire for withdrawal of further amount and that application be decided on its own merits.
- E) Civil application stands disposed off accordingly.

(K.K.TATED, J.)