

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

**CIVIL APPLICATION NO.3247 OF 2014
IN
FIRST APPEAL (ST) NO.24469 OF 2014**

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.Nukul Mehta i/b M/s.KMC Legal Venture
for the applicant

Mr.Utagikar Makarand Avinash for the
respondent

CORAM : K.K.TATED, J.
DATED : 06/02/2015

PC:

- 1 Not on board. At the request of applicant, matter is taken on board.
- 2 This application is preferred by Insurance Company for stay of the operation and implementation of the judgment and award dated 23.1.2014 passed by MACT, Pune in MACP No.788 of 2007.
- 3 The learned counsel for the applicant submits that as per order dt.24.09.2014 passed by this court, they deposited entire decreetal amount with interest and cost in the Tribunal.
- 4 Statement is accepted.

5 The learned counsel for the applicant further submits that the applicant has no objection if respondent nos.1, 4 and 5 withdraw some amount on the basis of Rs.3,000/- per month earning of deceased. The learned counsel for the applicant submits that the Tribunal has awarded compensation on higher side. He submits that the respondents claimants failed to place on record documentary evidence to show that the deceased was earning Rs.10,000/- per month. He submits that if the entire amount is withdrawn by the respondents claimants, nothing will survive in the present proceeding. He submits that in the interest of Justice this honourable court be pleased to stay the operation and implementation of the judgment and award dated 23.1.2014 passed by MACT, Pune in MACP No.788 of 2007 till the hearing and final disposal of the First Appeal.

6 On the other hand the learned counsel for the respondents claimants vehemently opposed the present Civil Application. He submits that in the accident which took place on 25.5.2007 the claimant no.1 Priyali Dattatraya Jagtap lost her husband. He further submits that claimant no.1 has to look after her two minor children as well as her father in law and mother in law who are

Senior Citizens. He further submits that respondents claimants have no source of income. He submits that on the date of accident deceased was of 38 years old. He was earning Rs.10,000/- per month. The learned counsel for the respondents claimants submits that this honourable court be pleased to allow the claimants to withdraw entire amount for taking care of claimant nos.2 and 3 who are minors and claimant nos.4 and 5 who are Senior Citizens.

7 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. At the same time, claimants are entitled to withdraw some amount at present. Hence, following order:

A) Operation and implementation of the impugned award dated 23.1.2014 passed by MACT Pune in MACP No.788 of 2007 is stayed till the hearing and final disposal of the First Appeal.

B) Respondent no.1 claimant no.1 Priyali Dattatraya Jagtap is entitled to withdraw sum of Rs.4.0 lacs with accrued interest without

furnishing any security.

C) Respondent no.4 Claimant no.4 Jaysing Sarjerao Jagtap and Respondent no.5 Claimant no.5 Vastasalabai Jainsingrao Jagtap, both of them are entitled to withdraw Rs.2.0 lacs each with accrued interest without furnishing any security.

D) 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.

E) Civil Application is disposed of accordingly.

(K.K.TATED, J.)