

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

**CIVIL APPLICATION NO.168 OF 2013
IN
FIRST APPEAL (ST). NO.33856 OF 2012**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
---	----------------------------

Mr.D.S.Joshi for the applicant

Mr.S.A.Tarale for the respondent

**CORAM : K.K.TATED, J.
DATED : 20/04/2015**

PC:

- 1 Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.
- 2 Heard the learned counsel for the parties.
- 3 This application is filed by Insurance Company for stay of the operation and implementation of the judgment and award dated 16.1.2012 passed by MACT, Pune in MACP No.1192 of 2006.
- 4 The learned counsel for the respondents claimants submits that he verified from the Tribunal that the applicant Insurance Company deposited entire decretal amount.
- 5 The learned counsel for the applicant submits that as the Tribunal has awarded enhanced compensation in favour of the respondents

claimants, this Honourable Court be pleased to stay the operation and implementation of the impugned judgment and award dated 16.1.2012 passed by MACT, Pune in MACP No.1192 of 2006 till the hearing and final disposal of the First Appeal. He further submits that the deceased was travelling as a gratuitous passenger and therefore, Insurance Company is not liable to pay any compensation. He submits that if stay is not granted, respondents claimants may withdraw entire amount and in that case nothing will survive in the present proceeding.

6 On the other hand, the learned counsel for the respondents claimants vehemently opposed the present Civil Application. He submits that original claimant no.2 Shetiba Tamma Mane, expired two years before. He submits that applicant no.1 is mother of the deceased who is Senior Citizen and applicant no.2 is wife of the deceased. He submits that applicants preferred Civil Application No.1924 of 2015 for withdrawal of the amount and that be heard on its own merits.

7 Considering the submissions made by the learned counsel for the applicant and the averments made in Civil Application, I am satisfied that the applicant has made out a case for allowing Civil Application. Hence, following order:

(a) Operation and implementation of the judgment and award dated 16.1.2012 passed by

MACT, Pune in MACP No.1192 of 2006 is stayed till the hearing and final disposal of the First Appeal.

(b) Civil Application No.1524 of 2015 preferred by the respondents claimants for withdrawal of the amount be decided on its own merits.

(c) In the meanwhile, Tribunal is directed to invest entire 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 the First Appeal.

(d) Civil Application is disposed of accordingly.

(K.K.TATED, J.)