

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

**CIVIL APPLICATION NO.140 OF 2013
IN
FIRST APPEAL NO.1348 OF 2013**

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.M.M.Sathaye for the appellant

Mr.Uday B. Nighot for the respondent nos.1 to 3

Mr.T.R.Yadav for respondent no.6

CORAM : K.K.TATED, J.
DATED : 11/03/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by Insurance Company of Car for stay of the operation and implementation of the impugned judgment and award dated 24.08.2012 passed by MACT, Pune in MACP No.627 of 2009 holding that the respondents claimants are entitled compensation of Rs.7,71,000/- with 9% interest.
- 3 The learned counsel for the applicant submits that as per order dated 16.01.2013 passed by this court, they deposited their share of decretal

amount in the Trial Court.

4 Statement is accepted.

5 The learned counsel for the applicant submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award passed by Tribunal against the applicant. He submits that if entire amount deposited by the applicant is withdrawn by the respondents claimants, nothing will survive in the present proceeding. He further submits that they have good chance of success in the present matter.

6 On the other hand, the learned counsel for the respondents claimants vehemently opposed the present Civil Application. He further submits that the claimants preferred Civil Application No.3299 of 2014 for withdrawal of the amount.

7 In the present proceeding, in an accident which occurred on 9.3.2009, claimant nos.1 and 2 lost their 20 years son Sachin Balu Pokharkar. As per the contention of the claimants, the deceased was earning more than Rs.5000/- p.m. On the basis of these facts, the respondents claimants filed application for compensation under section 166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.14.0 lacs. At present, considering the reasons disclosed by the Tribunal, I

am of the opinion that the respondents claimants nos.1 and 2 i.e. parents of the deceased are entitled to withdraw some amount without furnishing any security. At present, Respondents claimants Suman B. Pokharkar and Balu S. Pokharkar are entitled to withdraw 20 % each without furnishing any security.

8 Considering the submissions made by the learned counsel for the Applicant, the averments made in the Application and as amount is already deposited in the Tribunal, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

9 Application preferred by the respondents claimants for withdrawal of the amount will be heard on its own merits.

10 Hence, following order:

a) The operation and implementation of the impugned judgment and award dated 24.08.2012 passed by MACT, Pune in MACP No.627 of 2009 is stayed against the applicant till the hearing and final disposal of the First Appeal.

b) Respondents claimants Suman B. Pokharkar and Balu S. Pokharkar are entitled to withdraw 20% amount each without furnishing any security.

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 the First Appeal.

d) Civil Application No.3299 of 2014 preferred by the respondents claimants for withdrawal of the remaining amount be decided on its own merits.

e) Civil application stands disposed off accordingly.

(K.K.TATED, J.)