

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

**CIVIL APPLICATION NO.1870 OF 2013
IN
FIRST APPEAL NO.487 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.S.M.Dange for the applicant

Mr.S.B.Deshmukh for the respondent nos.1 to 4

CORAM : K.K.TATED, J.
DATED : 18/03/2015

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 26.09.2012 passed by MACT, Nashik in MACP No.128 of 2007 by which the Tribunal awarded sum of Rs.19,71,400/- with 6% interest by way of compensation in favour of respondents claimants.
- 3 The learned counsel for the applicant submits that the Tribunal failed to consider the contributory negligence on the part of the deceased. He further

submits that the Tribunal awarded compensation on higher side.

4 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 till the hearing and final disposal of the First Appeal. He submits that pursuant to the order passed by this court on 24.7.2013 they deposited entire decretal amount in the Trial Court. He submits that if entire amount is withdrawn by the respondent claimant, nothing will survive in the present proceeding.

5 On the other hand, the learned counsel for the claimant vehemently opposed the present Civil Application. He further submits that the claimants preferred Civil Application No.3387 of 2014 for withdrawal of the amount.

6 Considering the submissions made by the learned counsel for the applicant and the averments made in Civil Application, following order is passed:

a Operation and implementation of the impugned judgment and award dated 26.9.2012 passed by MACT at Nashik in MACP No.128 of 2007 is stayed till the hearing and final disposal of the First Appeal.

b 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 First Appeal.

d Civil Application No.3387 of 2014 preferred by the claimants for withdrawal of amount will be decided on its own merits.

e Civil application stands disposed off accordingly.

(K.K.TATED, J.)