

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

**CIVIL APPLICATION NO.1993 OF 2015
IN
FIRST APPEAL (ST) NO.27836 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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Ms.Pooja P. Joshi i/b Mr.Abhijeet A. Joshi for
the applicant

CORAM : K.K.TATED, J.
DATED : 11/01/2016

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 5.6.2014 passed by MACT, Sangli in Application No.120 of 2010 holding that the respondent claimants are entitled sum of Rs.2,68,000/- with interest @ 6% p.a. from the date of filing of petition till realisation of the amount by way of compensation.
- 3 The learned counsel for the applicant submits that the Tribunal awarded compensation on higher side. She submits that if entire amount is

recovered by the respondents claimants then nothing will survive in the present proceeding. She submits that they have good chance of success in the present matter. She submits that pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned award passed by the Tribunal. She submits that if stay is not granted, irreparable loss and injury will be caused to them.

4 I have heard the learned counsel for the applicant at length. It is to be noted that in the present proceeding in an accident which occurred on 14.6.2009 mother of claimant nos.1 and 2 and wife of org.opponent no.2 expired. Hence, they preferred Claim Petition under section 163-A of the Motor Vehicle Act, 1988 for grant of compensation of Rs.3,64,500/-. Considering the evidence on record, the Tribunal awarded sum of Rs.2,68,000/- with 6% interest by way of compensation.

5 Considering the reasons given by the Tribunal, I am of the opinion that original claimant nos.1 and 2 are entitled to withdraw some amount without furnishing any security but subject to outcome of the First Appeal. Hence, following order is passed:

a. The operation and implementation of the

impugned judgment and award dated 5.6.2014 passed by MACT, Sangli in Application No.120 of 2010 is stayed, till hearing and final disposal of the appeal on condition that the Applicant Insurance Company to deposit the entire awarded amount with interest, cost, if any, in the Tribunal within four weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If the entire awarded amount is not deposited within stipulated time as stated hereinabove, the Respondent-claimants are entitled to execute the award as per law.

c. If the entire awarded amount is deposited within stipulated time as stated hereinabove, the claimant no.1, Shri Kulbhushan Ashok Upadhey and claimant no.2, Smt.Darshna Shital Dhavate are entitled to withdraw Rs.50,000/- each without furnishing any security subject to out come of the appeal.

d. The Tribunal is directed to invest the remaining award amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.

e. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of further

amount, if they so desire, which will be decided on its own merits

f. The statutory deposit made by the Applicant at the time of filing the First Appeal be transferred to the Tribunal.

g. Civil application stands disposed off accordingly.

(K.K.TATED, J.)