

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

**CIVIL APPLICATION NO. 525 OF 2013
IN
FIRST APPEAL (ST.) NO. 36208 OF 2012**

The New India Assurance Co. Ltd.	... Applicant
V/s.	
Smr. Rakhiben Velji Vaid & Ors.	... Respondents

Mr. D. R. Mahadik for the applicant.
None for the respondents.

**CORAM : K. K. TATED, J.
DATED : 08/01/2016**

P.C.:

- . Heard learned Counsel for the applicant.
- 2 Though the respondents are duly served, no one appeared on behalf of them, when the matter called out.
- 3 This civil application is preferred by Insurance Company for stay of operation and implementation of the Judgment and Award dated 26.06.2012 passed by the Motor Accident Claims Tribunal, Mumbai in Application No. 185 of 2005 by which the Tribunal has awarded a sum of Rs.12,47,500/- with interest @ 8% per annum from the date of filing of application till the realisation of amount to the respondents-claimants.
- 4 The learned Counsel for the applicant submits that they already deposited the entire awarded amount with the interest and costs in the

Tribunal. He submits that if the entire amount is withdrawn by the respondents-claimants, nothing will survive in the present First Appeal. He submits that the Tribunal has awarded compensation on higher side. He submits that the Tribunal failed to consider the fact that respondents-claimants failed to produce any documentary evidence of the income of deceased for the year 2004 when the accident occurred. Hence, they have good chance of success in the present matter. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of impugned Judgment and Award passed by the Tribunal till the hearing and final disposal of the First Appeal.

5 I heard learned Counsel for the applicant at length. In the present proceeding, the accident occurred on 20.12.2004. The claimant no.1 lost her husband. On the date of accident, he was 36 years old. He was earning Rs.1,00,000/- per year. On the basis of these facts, the respondents-claimants filed application for compensation of Rs.20,00,000/-. Considering the evidence on record, the Tribunal awarded sum of Rs.12,47,500/- to the Respondents-claimants.

6 Considering these facts and as the Claimant No.1 has to look after her two minor children, I am of the opinion that she is entitled to withdraw some amount without furnishing any security.

7 Hence, following order.

a) Operation and implementation of the impugned Judgment and Award dated 26.06.2012 passed by the Motor Accident Claims

Tribunal, Mumbai in Application No. 185 of 2005, is stayed till the hearing and final disposal of the First Appeal.

b) Original Claimant No.1 Smt. Rakhiben Velji Vaid is entitled to withdraw sum of Rs.3,00,000/- with accrued interest without furnishing any security.

c) The Tribunal is directed to invest the remaining amount in Fixed deposits of any Nationalised Bank, initially for the period of one year and same to be continued till hearing and final disposal of the First Appeal.

d) Liberty granted to the respondents claimants to take out appropriate application, if they so desire, for withdrawal of the further amount and that application will be decided on its own merits.

e) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)