

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

**CIVIL APPLICATION NO.1286 OF 2017
IN
FIRST APPEAL (ST.) NO.8830 OF 2017
WITH
CIVIL APPLICATION NO.1287 OF 2017**

National Insurance Co. Ltd. ... Applicant/Appellant

Versus

Shri Deepak Suresh Gandhi And Others ... Respondents

.....

Mr. Amol Gatne for the Applicant/Appellant.

Ms. Varsha Gatne a/w Mr. Hardik Sanghvi i/b Agrud Partners for
Respondent No.2.

.....

CORAM : S.C.GUPTE, J.

DATE : 27 APRIL 2017

P.C. :

. Heard learned Counsel for the parties.

2 Civil Application No.1286 of 2017 is for condonaton of a delay of 239 days in filing the present First Appeal. For the reasons stated in the civil application, the same is allowed by condoning the delay. Office shall now number the First Appeal, subject to removal of office objections, if any. After the appeal is numbered, the same shall appear for admission in due course.

3 Civil Application No.1287 of 2017 is for stay of execution of the impugned award passed by the Motor Accident Claims Tribunal, Mumbai.

Learned Counsel for the Applicant/Appellant submits that his client shall deposit the entire decretal amount together with upto date interest before the MACT, Mumbai. If one has regard to the ground of challenge in the First Appeal, it is apparent that the only objection is to the application of the particular multiplier used by the Trial Court for arriving at the compensation. Whereas, the Trial Court has used multiplier of 18 for calculating the compensation, the Applicant/Appellant admits multiplier of 13. The Trial Court has awarded a total compensation of Rs.58,95,000/- with interest @ 9% per annum from the date of the claim petition till the payment or realization. The total amount of compensation together with interest as of today is said to be Rs.97,45,865/-. Considering the ground of challenge in the First Appeal referred above, it is clear that there is no defence as far as about 2/3rd compensation awarded by the Trial Court is concerned. In the premises, Civil Application No.1287 of 2017 is disposed of by ordering stay of execution of the impugned order passed by the MACT, Mumbai, subject to the Applicant/Appellant depositing the sum of Rs.97,45,865/- before MACT, Mumbai, within a period of two weeks from today. Respondent No.2 (original Applicant No.2) shall be entitled to withdraw the sum of Rs.66,00,000/- from out of the amount deposited by the Appellant before the MACT, Mumbai, without any security. The balance amount shall be invested by the Registrar of the MACT, Mumbai, in a fixed deposit of the Nationalized Bank, initially for a period of one year and renewal thereafter from time to time till the disposal of the First Appeal.

4 The First Appeal to come up for admission on 12 June 2017.

5 The amount of Rs.25,000/- deposited by the Appellant in this Court

as a pre-condition for filing the First Appeal, shall be transferred by the Registry to the MACT, Mumbai.

6 Since there is no relief claimed against Respondent No.3 in the present First Appeal, notice to Respondent No.3 is dispensed with.

(S.C. GUPTE, J.)