

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

**CIVIL APPLICATION NO.2050 OF 2016
WITH
CIVIL APPLICATION NO.2051 OF 2016
IN
FIRST APPEAL (ST.) NO.4961 OF 2016**

The Manager, The New India Assurance Co. Ltd.	...	Applicant/Appellant
Versus		
Smt. Ujwala Sandip Pawar And Others	...	Respondents

**WITH
CIVIL APPLICATION NO.3913 OF 2016
IN
FIRST APPEAL (ST.) NO.4961 OF 2016**

Smt. Ujwala Sandip Pawar And Others	...	Applicants
Versus		
The Manager, The New India Assurance Co. Ltd.	...	Respondent

.....

Mr. Milind V. More for the Applicant in Civil Application Nos.2050 of 2016 and 2051 of 2016 and for the Respondent in Civil Application No.3913 of 2016.

Mr. V.R. Gaikwad for the Applicants in Civil Application Nos.3913 of 2016 and for the Respondents in Civil Application Nos.2050 of 2016 and 2051 of 2016.

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CORAM : S.C.GUPTE, J.

DATE : 27 APRIL 2017

P.C. :

. Civil Application No.2050 of 2016 is for condonation of delay of 17 days in filing the present First Appeal. For the reasons stated in the civil application, the same is allowed by condonong the delay. Office shall now number the First Appeal and place the same for admission in due course.

2 Civil Application No.2051 of 2016 is for stay of execution of the impugned award dated 31 August 2015, passed by MACT, Satara. Learned Counsel for the Appellant insurer submits that the entire decretal amount together with interest has been deposited by the Appellant before MACT, Satara and that the execution of the impugned order be stayed against such deposit.

3 Civil Application No.3913 of 2016 is filed by Respondent Nos.1 to 3 (Original Applicants before MACT, Satara) for permission to withdraw the amount deposited by the Appellant insurer.

4 The main ground of challenge to the impugned award of the Tribunal in the present First Appeal is that the ground of contributory negligence of the accident victim as cause of the accident has not been considered by the Trial Court, though the ground was specifically raised before it by the Appellant insurer. Secondly, it is submitted that the income of the accident victim has been incorrectly calculated by the Trial Court. On these facts, through the execution of the impugned award deserves to be stayed against deposit of the decretal amount, the original

Applicants deserve to be permitted to withdraw atleast 50% amount of the compensation deposited by the Appellant insurer without any security.

5 In the premises, Civil Application No.2051 is made returnable alongwith the First Appeal for admission. Till the next date, the execution of the impugned award of MACT, Satara, is stayed. Civil Application No.3913 of 2016 is also made returnable alongwith the First Appeal for admission. In the meantime, the Applicants to this civil application (original Applicants before MACT, Satara) are permitted to withdraw the sum of Rs.10,00,000/- from out of the amount deposited by the Appellant insurer before MACT, Satara, without any security.

(S.C. GUPTE, J.)