

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1485 OF 2017
(FOR CONDONATION)**

**WITH
CIVIL APPLICATION NO. 1486 OF 2017
(FOR STAY)**

**IN
FIRST APPEAL (ST) NO. 12248 OF 2017**

The New India Assurance Co. Ltd. ..Applicant/Appellant
Vs

Smt. Sonia Rakesh Baluni and ors. ..Respondents

**WITH
CIVIL APPLICATION (ST) NO. 16423 OF 2017
(FOR WITHDRAWAL)**

**IN
FIRST APPEAL (ST) NO. 12248 OF 2017**

Smt. Sonia Rakesh Baluni ..Applicant/Org.
Respondent No.1

In the matter between
New India Assurance Company Limited .. Appellant.
Vs.

Smt. Sonia R. Baluni and ors. .. Respondents.

Mr. D.S. Joshi for the Applicant/Appellant in CAF 1485-1486 of 2017.
Ms Varsha Chavan for Respondent Nos.1 to 3 in CAF 1485-1486 of
2017 and for Applicant in CAFST 16423 of 2017.

**CORAM : SHANTANU S. KEMKAR &
M. S. SONAK, JJ.**

DATE : JUNE 29, 2017.

P.C. :

. Not on board. In view of urgency, taken on production
board.

In Civil Application No. 1485 of 2017

2] Heard learned counsel for the parties on Civil Application No. 1485 of 2017 seeking condonation of delay in filing the first appeal. The delay is of 41 days. We find that the same has been satisfactorily explained. Accordingly, the delay in filing the first appeal is condoned.

In First Appeal (St) No. 12248 of 2017

3] Heard learned counsel for the parties on the question of admission. Admitted for hearing.

4] Issue notice to the respondents. Ms Varsha Chavan, learned counsel waives service of notice on behalf of respondent Nos.1 to 3.

5] Steps for service of notice on respondent No.4 to be taken within two weeks.

**In Civil Application No. 1486 of 2017 (for Stay) and
Civil Application (St) No. 16423 of 2017 (for
withdrawal of amount)**

6] Also heard learned counsel for the parties on application for stay (Civil Application No. 1486 of 2017) as also Civil Application (St) No. 16423 of 2017.

7] The appellant/applicant have deposited the award amount to the extent of Rs.5,74,11,628/-. Now, it has been prayed by the learned counsel for the appellant/applicant that since the award amount has been deposited, the same may be ordered to be kept in Fixed Deposit and may not be disbursed to the respondents. On the other hand, learned counsel for the applicant in Civil Application (St) No.16423 of 2017 seeks release of the entire amount.

8] Having considered the submissions made by learned counsel for the parties and taking note of the fact that the claimants are major and so far they have received only Rs.50,000/- out of the award amount, we are inclined to dispose of the stay application as also Civil Application (St) No. 16423 of 2017 by ordering that out of

the amount deposited by the applicant/appellant (New India Assurance Company Limited), Rs.1,25,00,000/- (Rupees One Crore Twenty Five Lakhs only) be released in favour of the applicants-claimants, who are respondent Nos.1 to 3 in First Appeal (St) No.12248 of 2017 on their furnishing an undertaking to the effect that in case the appeal is allowed and they are required to deposit the amount back they will deposit the same within one month. The undertaking to this effect is to be submitted before the Registrar (Judicial-I) within two weeks. The rest of the amount which has been deposited by the appellant/applicant be invested in fixed deposit account of the Nationalised Bank initially for a period of one year and thereafter the same may be renewed from time to time during the pendency of the appeal.

9] Call for Record and Proceedings.

10] In view of the aforesaid, the execution of the award stands stayed.

11] All the civil applications are disposed of as such.

(M. S. SONAK, J.)

(SHANTANU S. KEMKAR, J.)