

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

**CIVIL APPLICATION NO.1032 OF 2015
WITH
CIVIL APPLICATION NO.1033 OF 2015
WITH
CIVIL APPLICATION NO.1134 OF 2017
IN
FIRST APPEAL (ST.) NO.17044 OF 2014**

National Insurance Company Ltd. ... Applicant
Versus
Prakash Soudagar Godage And Others ... Respondents

.....

Mr. Rahul Mehta i/b KMC Legal Venture for the Applicant/appellant.
Mr. R.S. Alange for Respondent Nos.1 to 3.
Mr. Jagdish Nagar i/b Jagdish Nagar & Associates for Respondent No.4.

.....

CORAM : S.C.GUPTE, J.

DATE : 18 APRIL 2017

P.C. :

. Civil Application No.1032 of 2015 is for condonation of a delay of 11 days in filing the present First Appeal. For the reasons stated in the civil application, the same is allowed by condoning the delay.

2 The First Appeal, which challenges an award of compensation passed by Motor Accident Claims Tribunal, is admitted and taken up for hearing forthwith by consent of learned Counsel for both sides.

3 After the First Appeal is heard at some length, learned Counsel for the Appellant seeks time to produce a panchnama drawn by the Police at

the scene of the accident, which, according to learned Counsel, is crucial for decision on the First Appeal. The impugned order grants compensation to the Applicants, whose parents died in the subject accident. The compensation awarded is *prima facie* a reasonable sum of Rs.3,90,000/- with interest at the rate of 7.5 % per annum from the date of the petition till realization. The entire amount of compensation together with interest has been deposited by the Appellant. The amount deposited comes to over Rs.5,00,000/-. In the circumstances, it is in the interest of justice that if the hearing of the First Appeal is deferred, the Applicants (Respondent Nos.1 to 3 to the present First Appeal) should be permitted to withdraw a sum of Rs.3,00,000/- from out of the amount deposited by the Appellant before the Motor Accident Claims Tribunal, Solapur, without security. Such withdrawal shall be subject to the outcome of the First Appeal.

4 Since the Appellant has already deposited the entire decretal amount together with interest and this order even allows the original Applicants (Respondent Nos.1 to 3 to the First Appeal) to withdraw a part of that amount, Civil Application No.1033 of 2015 is disposed of by ordering stay of execution of the impugned award pending the disposal of the First Appeal.

5 Civil Application No.1134 of 2017 seeks substituted service against Respondent No.1. Since the Respondent appears today through Counsel, the application is not pressed. Civil Application No.1134 of 2017 is accordingly disposed of.

6 First Appeal shall come up for further hearing on 2 May 2017 at
03.00 p.m.

(S.C. GUPTE, J.)