

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

**CIVIL APPLICATION NO. 3161 OF 2017
WITH
CIVIL APPLICATION NO. 3162 OF 2017
IN
FIRST APPEAL (ST.) NO. 27351 OF 2017**

National Insurance Company Ltd. ...Applicant

Versus

Mr.Ashok Tatu Sawant & Ors. ...Respondents

**WITH
CIVIL APPLICATION NO.4048 OF 2017
IN
FIRST APPEAL (ST.) NO. 27351 OF 2017**

Archana Ashok Sawant ...Applicant

**In the matter of National Insurance Co.Ltd. V/s Ashok Tatu
Sawant & Ors.**

National Insurance Co. Ltd. ...Appellant

Versus

Ashok Tatu Sawant & Ors. ...Respondents

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Ms. Harshada M. Rane for the Applicant.
Ms.Varsha Chavan for Respondent No.1 and the Applicant in CAF
No. 4048 of 2017.

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CORAM: MRS.MRIDULA BHATKAR, J.
DATE : DECEMBER 13, 2017

P.C.:

1. Upon urgent mentioning, taken on Production Board.

CIVIL APPLICATION NO. 3161 OF 2017

2. Learned counsel for the applicant submits there is a delay of 97 days in filing the Appeal. The delay has occurred due to procedural requirement and it is not deliberate.

3. Learned counsel for respondent no.1 submits to the order passed by this Court.

4. In view of uncontroverted submissions, delay is condoned.

5. First Appeal be registered.

CIVIL APPLICATION NO. 3162 OF 2017

6. By this Civil Application, the applicant/insurance company seeks stay to the operation and execution of the impugned judgment and award dated 16th February, 2017 passed by the learned Member, CR-5, Motor Accident Claims Tribunal, Mumbai in M.A.C.P. No. 2772 of 2012. The learned Counsel for the applicant submits that the

applicant/insurance company has deposited the entire decretal amount alongwith interest accrued thereon.

7. In view of this submission, the execution and implementation of the impugned judgment and award is stayed till the final disposal of the Appeal.

8. Civil Application is allowed and is accordingly disposed of.

CIVIL APPLICATION NO.4048 OF 2017

9. This Application is moved by the applicant for withdrawal of an amount of Rs. 13,60,000/- along with interest @ 9% p.a. deposited by the insurance company/original appellant pursuant to the judgment and award dated 16th February, 2017 passed by the learned Member, Motor Accident Claims Tribunal, Mumbai in M.A.C.P. No. 2772 of 2012.

10. Learned counsel for the applicant submitted that the applicant is mother of the deceased. During pendency of the claim petition, other claimant i.e. father of the deceased died and hence, the claim was contested by mother of the deceased.

11. Learned counsel for the appellant/insurance company while opposing this application, has submitted that the insurance company has good case against the order of award. She submitted that the entire decretal amount along with interest is deposited.

12. Considering the facts of the case and the submissions, the applicant, i.e., mother of the deceased is allowed to withdraw 50% of the amount along with interest accrued thereon deposited by the insurance company on an usual undertaking. The remaining amount is to be deposited in the fixed deposit in any nationalized bank.

13. Civil Application is allowed and is accordingly disposed of.

(MRIDULA BHATKAR, J.)