

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

**CIVIL APPLICATION NO. 3576 OF 2017
WITH
CIVIL APPLICATION NO. 3577 OF 2017
IN
FIRST APPEAL (ST.) NO. 31615 OF 2017**

IFFCO TOKIO General Insurance
Company Ltd.

...Applicant

Versus

Ramu Babu Deshmukh & Anr.

...Respondents

**WITH
CIVIL APPLICATION NO. 4060 OF 2017
IN
FIRST APPEAL (ST.) NO. 31615 OF 2017**

Ramu Babu Deshmukh

...Applicant

Versus

IFFCO TOKIO General Insurance
Company Ltd. & Anr.

...Respondents

.....

Mr.Nitesh Bhutekar for the Applicant.

Mr.Pritesh K.Bohade for Respondent No.1 and the Applicant in CAF
No. 4060 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.

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2. Learned counsel for the applicant submits there is a delay of 149 days in filing the Appeal. The delay has occurred due to procedural requirement and took time to engage the counsel and to take decision. He further submits that the applicant/insurance company has served the original claimant.

3. Learned counsel for respondent no.1 opposes this application.

4. In view of this submission and the reasons mentioned in the Civil Application, delay is condoned.

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

6. First Appeal be numbered.

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7. By this Civil Application, the applicant/insurance company seeks stay to the operation and execution of the impugned judgment and award dated 8th March, 2017 passed by the learned Member, Motor Accident Claims Tribunal, Nashik in M.A.C.P. No. 328 of 2013.

The learned Counsel for the applicant submits that the applicant/insurance company has deposited the entire decretal amount alongwith interest accrued thereon.

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

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

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10. This Application is moved by the applicant for withdrawal of an amount of Rs. 6,37,000/- along with interest @ 7.5% p.a. deposited by the insurance company/original appellant pursuant to the judgment and award dated 8th March, 2017 passed by the learned Member, Motor Accident Claims Tribunal, Nashik in M.A.C.P. No. 328 of 2013.

11. Learned counsel for the applicant submitted that on 22nd December, 2012, the applicant has lost his wife in accident. The learned Member of the Tribunal, after considering the oral as well as

documentary evidence, held opposite party and insurer jointly and severally liable to pay compensation of Rs. 6,37,000/- along with interest @7.5% p.a.

12. 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.

13. Considering the facts of the case and the submissions, the applicant 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.

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

(MRIDULA BHATKAR, J.)