

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

**FIRST APPEAL (ST.) NO. 14802 OF 2017
WITH
CIVIL APPLICATION NO. 1973 OF 2017
IN
FIRST APPEAL (ST.) NO. 14802 OF 2017**

Future Generali India Ins. Co. Ltd. ...Applicant

Versus

Smt.Takrimunnisha Mohd. Haddis Khan & Anr. ...Respondents

**WITH
CIVIL APPLICATION NO. 3768 OF 2017
IN
FIRST APPEAL (ST.) NO. 14802 OF 2017**

Smt.Takrimunnisha Mohd. Haddis Khan ...Applicant

IN THE MATTER OF

Future Generali India Ins. Co. Ltd. ...Appellant

Versus

Smt.Takrimunnisha Mohd. Haddis Khan & Anr. ...Respondents

.....

Mr.D.R.Mahadik for the Appellant.

Mr. T.J.Mendon for Respondent No.1 and the Applicant in CAF No.
3768 of 2017.

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CORAM: MRS.MRIDULA BHATKAR, J.
DATED: NOVEMBER 28, 2017

P.C. :

1. Upon urgent mentioning, taken on Production Board.

CIVIL APPLICATION NO. 1973 OF 2017

2. By this Civil Application, the applicant/insurance company seeks stay to the execution and implementation of the impugned judgment and order dated 23rd March, 2017 passed by the learned Commissioner for Employees Compensation & Judge, 7th Labour Court at Mumbai in Application (ECA) No. 624/B-122 of 2013. The learned Commissioner has granted compensation of Rs. 8,73,880/- along with interest @ 12% p.a.
3. The learned Counsel for the applicant submits that the applicant/insurance company has deposited the entire decretal amount alongwith interest accrued thereon.
4. In view of this submission, the execution and implementation of the impugned judgment and order is stayed till the final disposal of the Appeal.

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

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6. This Application is moved for withdrawal of an amount deposited by the original appellant pursuant to the judgment and award dated 23rd March, 2017 passed by the learned Commissioner for Employee's Compensation and Judge, 7th Labour Court, Mumbai, in Application (ECA) No. 624/B-122 of 2013. The learned Commissioner has granted compensation of Rs. 8,73,880/- along with interest @ 12% p.a.

7. Learned counsel for the applicant submits that the applicant is a mother of the deceased and, therefore, she be allowed to withdraw the entire amount of the compensation.

8. Learned counsel for the insurance company opposes this application. He submits that the insurance company has good case on merits. He has taken defence that the vehicle was not insured at the relevant time.

9. Considering the judgment and order and the submission of the learned counsel, the applicant is allowed to withdraw 50% of the amount alongwith interest accrued thereon deposited by the appellant/insurance company on an usual undertaking. The remaining amount is to be deposited in the fixed deposit in any nationalized bank.

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

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11. Issue notice to respondent no. 2, returnable on 23.01.2018.

(MRIDULA BHATKAR, J.)