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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

FIRST APPEAL No. 1138 OF 2017  
WITH  
CIVIL APPLICATION No. 1688 OF 2018  
WITH  
CIVIL APPLICATION No. 3127 OF 2017

Iffco Tokiyo General Insurance Co. Ltd. ... Appellant  
Vs.  
Smt. Savita Subhash Margale & Ors. ... Respondents

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Ms. Dipika Prabala I/b Res Juris, for the Appellant and for Applicant in CAF. 3127/2017 and for Respondent in CAF. 1688/2018.

Mr. Mahindra B. Deshmukh, for the Respondent Nos. 1 to 5 in FA. 1138/2017, CAF. 3127/2017 and for Applicant in CAF. 1688/2017.

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CORAM : V. M. DESHPANDE, J.

DATE : JULY 18, 2018

PC :-

FIRST APPEAL No. 1138 OF 2017

1. Heard the learned counsel for the Appellant. **Admit.**  
Learned counsel Mr. Mahendra Deshmukh waives service of notice for the Respondent Nos. 1 to 5. Call for record and

proceedings.

CIVIL APPLICATION No. 1688 of 2018

2. This is an application filed by the original claimants, who are legal representatives of deceased Subhash Margale, for withdrawal of the amount of compensation deposited by the insurance company before the court below. The learned Court below by an impugned judgment and award dated 1.3.2017 passed in MACP No. 98 of 2014 awarded compensation of Rs.54,49,700/- to the applicants inclusive of no fault liability with interest at the rate of 8% p.a. The learned counsel for the Appellant states that the insurance company has deposited entire amount of compensation i.e. Rs. 68,87,222/-, in the court below, as per the directions given by this Court by order dated 4<sup>th</sup> October, 2017 in Civil Application No. 3127 of 2017, at the time of granting ad-interim stay in favour of the insurance company. The learned court below under the head of apportionment has directed that Applicant No.1 (widow) is entitled to 50% amount whereas the daughter and son are

entitled to 10% amount each and parents of deceased were entitled to 30% of the amount.

3. After hearing the learned counsel for the Applicants / claimants and the learned counsel for the insurance company, in the interest of justice, I pass the following order:

(i) The Applicants herein / claimants are entitled to withdraw 50% of the amount deposited by the insurance company in the lower Court alongwith interest, as under:

(a) Out of 50% amount with interest, the Applicant Nos. 1 to 3 are entitled to withdraw 70% amount. This amount can be withdrawn by Applicant No. 1 Savita Margale for herself and for her children Applicant Nos. 2 Sai Margale and Applicant No. 3 Ayarn Margale;

(b) Out of 50% amount with interest, the Applicant Nos. 4 Smt. Mangal Margale and Applicant No. 4 Hanmant Margale are entitled to withdraw 30% amount.

(c) Applicant Nos. 1 to 3 are at liberty to move this Court for further withdrawal after a period of

three years from today, if they are able to demonstrate hard pressing necessity for the same.

(ii) (a) Office is directed to transfer statutory deposit made by the Appellant insurance company at the time of lodging the appeal, to the Motor Accident Claims Tribunal at Sangli.

(b) The remaining 50% of the amount together with amount of statutory deposit shall be invested by the court below in any nationalised bank, initially for a period of 3 years and renew the same as and when occasion arises.

(iii) Civil Application No. 1688 of 2018 is accordingly partly allowed and disposed of in the aforesaid terms.

CIVIL APPLICATION No. 3127 OF 2017

4. This is an application filed by the insurance company for stay to the impugned judgment and award of the learned Tribunal. The learned counsel for the Appellant states that the insurance company has deposited entire amount of compensation i.e. Rs. 68,87,222/-, in the court below, as per the

directions given by this Court by order dated 4<sup>th</sup> October, 2017 in this application, at the time of granting ad-interim stay in favour of the Applicant insurance company. Looking to the question involved in the appeal, today this Court has admitted the appeal filed on behalf of the insurance company, as also allowed the original claimants to withdraw 50% of the compensation deposited by the insurance company, as indicated in the order. In that view of the matter, pending the hearing and disposal of the appeal, there shall be stay in respect of 50% compensation awarded vide impugned judgment and award dated 1.3.2017 passed in MACP No. 98 of 2014 by the learned Member, Motor Accident Claims Tribunal at Sangli, which the trial court will be investing in any nationalised bank.

6. Civil Application No. 3127 of 2017 is disposed of in the aforesaid terms.

Sd/-  
[V. M. DESHPANDE, J.]

Vinayak Halemath