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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 3125 OF 2017
IN
FIRST APPEAL (St.) No. 18386 OF 2017
WITH
CIVIL APPLICATION No. 1667 of 2018
WITH
CIVIL APPLICATION No. 3126 OF 2017

Iffco Tokio General Insurance Co. Ltd. ... Appellant
Vs.
Ankush Lengare & Anr. ... Respondents

Ms. Dipika Prabala i/b Res Juris for the Applicant in CAF No. 3125 of 2017, CAF No. 3126 of 2017 and for Appellant in FAST No. 18386 of 2017 and for Respondent in CAF No. 1667 of 2018

Mr. Mahendra B. Deshmukh for Applicant in CAF No. 1667 of 2018 and for Respondent No.1 in CAF No. 3125 of 2017, CAF No. 3126 of 2017 and FAST No. 18386 of 2017.

Mr. Sarwadnya Kadtare for Respondent No.2 in FAST No. 18386 of 2017.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 18, 2018

PC :-

CIVIL APPLICATION No. 3125 OF 2017

1. This is an application filed by the insurance company

for condoning the delay of 40 days caused in lodging the first appeal. Heard the learned counsel appearing for the Applicant and Respondent Nos. 1 and the Respondent No. 2. For the reasons stated in the application, delay is condoned. Application is accordingly allowed and disposed of in terms of prayer clause (a). Office to register the appeal after removal of office objections by the Appellant.

FIRST APPEAL (St.) No. 18386 OF 2017

2. Heard the learned counsel for the Appellant. **Admit.** Learned counsel Mr. Mahendra Deshmukh and Mr. Sarwadnya Kadtare waive service of notice for the Respondent No. 1 and Respondent No. 2 respectively. Call for record and proceedings.

CIVIL APPLICATION No. 1667 of 2018

3. This is an application filed by the original claimant, for withdrawal of the amount of compensation deposited by the insurance company before the court below. The applicant was injured in an accident. The learned Court below by an impugned judgment and award dated 6.1.2017 passed in MACP No. 96 of

2014 awarded compensation of Rs.1,44,200/- to the applicant 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, in the court below. Statement is accepted.

4. After hearing the learned counsel for the Applicant / claimant and the learned counsel for the insurance company, in the interest of justice, I pass the following order:

- (i) The Applicant herein / claimant is entitled to withdraw 50% of the amount deposited by the insurance company in the lower Court alongwith interest.
- (ii) The remaining 50% of the amount 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. 1667 of 2018 is accordingly partly allowed and disposed of in the aforesaid terms.

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CIVIL APPLICATION No. 3126 OF 2017

5. This is an application filed by the insurance company for stay to the impugned judgment and award of the learned Tribunal. Heard the learned counsel for the insurance company and the original claimant. 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 claimant 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 6.1.2017 passed in MACP No. 96 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. 3126 of 2017 is disposed of in the aforesaid terms.

[V. M. DESHPANDE, J.]