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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 2295 OF 2017
IN
FIRST APPEAL (St.) No. 16904 OF 2017
WITH
CIVIL APPLICATION No. 1661 OF 2018
WITH
CIVIL APPLICATION No. 2272 OF 2018

Sanjay Nagnath Havale & Anr. ... Applicants
Vs.
Reliance General Insurance Co. Ltd. ... Respondent

Mr. Rahul Mehta I/b KMC Legal Venture, for the Appellant in
CAF. 2295/2017, CAF. 1661/2018, & for the Respondent in
CAF. 2272/2018.

Mr. P. G. Sarda, for the Applicant in CAF. 2272/2018 & for
Respondent Nos. 1 & 2 in CAF. 2295/2017, CAF. 1661/2018.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 4, 2018

PC :-

CIVIL APPLICATION No. 2295 OF 2017

1. This application filed by the insurance company for
condonation of 173 days delay caused in filing the first appeal,

challenging the judgment and award dated 22.8.2016 passed by the learned Tribunal, in MACT Application No. 194 of 2013. Heard the learned counsel appearing for the parties. Presence of other respondents is not necessary for the purpose of this application, in view of the statement made by the learned counsel for the insurance company that appeal is only on the point of quantum of compensation. For the reasons stated in the application, said delay is condoned and Civil Application No. 2295 of 2017 is allowed and disposed of in terms of prayer clause (a). Office is directed to register the appeal.

CIVIL APPLICATION No. 2272 OF 2018

2. This application is filed for withdrawal of the amount, deposited by the insurance company with the Tribunal, by the Original claimants. By an impugned judgment and award dated 22.8.2016 passed in MACP No. 194 of 2013, learned Tribunal directed insurance company and opposite party therein to pay Rs.17,45,000/- which is inclusive of amount of no fault liability alongwith interest @ 9% p.a.

3. Learned counsel Mr. Rahul Mehta submits that Insurance company has deposited the entire amount before the learned Tribunal at Solapur. Statement is accepted. Claimants are parents of deceased Shravan Havale. After hearing the learned counsel appearing for the parties, I pass following order:

- (i) Applicants are entitled to withdraw 50% of the amount deposited by the insurance company with the Tribunal at Solapur. At the time of withdrawal of said amount, Applicants shall give an undertaking to the Tribunal that in the event Appellant insurance company succeeds in the appeal, they will refund the amount with interest, that may be determined by the Court, at that time;
- (ii) Learned Tribunal shall invest the remaining 50% amount in any nationalised bank, initially for a period of three years and continue to do so, as and when occasion arises;
- (iii) Applicants are at liberty to apply for withdrawal of

further amount after three years, if they are able to demonstrate hard pressing necessity for the same.

- (iv) Civil Application No. 2272 of 2018 is partly allowed and disposed of in the aforesaid terms.

CIVIL APPLICATION No. 1661 OF 2018

4. This is an application moved by the insurance company for dispensing with court notice on Respondent No. 3 Kishorchand Sharma, and for deletion of his name from the cause title of civil applications and the first appeal. For the reasons stated in the application, application is allowed and the Applicant insurance company is permitted to delete name of Respondent No. 3 at its own risk. Civil Application No. 1661 of 2018 is accordingly disposed of.

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

Vinayak Halemath