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

**CIVIL APPLICATION NO. 2646 OF 2018
IN
FIRST APPEAL (STAMP) NO.27773 OF 2010**

Pramodkumar Sabhajit @ Rajesh Mourya .. Applicant

In the matter of

Urmila Nemichand Agarwal .. Appellant

Vs.

Pramodkumar Sabhajit @ Rajesh Mourya & Ors. .. Respondents

Mr. R. V. Sankpal for the Applicant/Respondent.

Mr. A. B. Avhad for the Appellant.

CORAM : K. K. SONAWANE, J.

DATE : 26th JULY, 2018.

P. C. :

1. Heard learned Counsel for the applicant-original claimant and learned Counsel for respondent-owner of the offending vehicle. The applicants are the son and daughter of deceased Sabhajit @ Rajesh Moura who succumbed to injury caused in accident occurred on 10.06.2008. The applicants-original claimants filed an application under Section 166 of the Motor Vehicles Act for compensation. The concerned M.A.C.T. Satara appreciated the evidence on record and partly allowed the petition by impugned Judgment and Award dated 26.04.2010. There were endeavour on the part of respondent-owner of the offending vehicle to approach to this Court by filing appeal under Section 173 of the M. V. Act.

But, the conditional order passed by this Court was not complied with resulting into dismissal of proceeding filed on behalf of the respondent-owner. It is to be noted that the impugned Judgment and Award came to be passed in the year 2010. The applicants are stranded for compensation on account of death of their father Sabhajit @ Rajesh Mourya in the accident. But, even after the impugned Judgment and Award, respondent-owner of the offending vehicle did not deposit the decretal amount in the Court. However, he deposited the amount of Rs.3 lakhs for getting interim relief. In such peculiar circumstances, there is no impediment to allow the applicants-original claimants to withdraw the entire decretal amount deposited in this Court. The learned M. A. C. T. directed the respondent-owner of the offending vehicle to pay the compensation to the tune of Rs.2.75 lakhs with interest @ 6% p.a. from the date of petition i.e. 29.09.2008. The appellant-owner of the vehicle deposited Rs.3 lakhs in this Court. The balance compensation amount is yet to be deposited. Therefore, there is no difficulty to allow the application for withdrawal of amount deposited by the applicants-original claimants.

2. Accordingly, application stands allowed. The applicants-original claimants hereby permitted to withdraw the entire amount of Rs.3 lakhs with interest accrued thereon deposited in this Court subject to condition that they shall furnish undertaking that they would refund the amount forthwith in case any contingency arises in the appeal filed by the

respondent-owner of the offending vehicle. In such circumstances, the application stands disposed off. The Registrar of M. A. C. T., Satara do the needful for disbursement of the amount of Rs.3 lakhs in favour of applicants-claimants as mentioned above.

3. At this juncture, the learned Counsel for the applicants-original claimants submits that at the time of filing the petition under Section 166 of the M. V. Act, the applicant No.2-original claimant No.2 Ms. Anjali Sabhajit @ Rajesh Mourya was 12 years old minor daughter of the deceased. Now, she attained the age of majority and she also got married with one Surendrakumar Mourya. The learned Counsel produced extract of her marriage card and photograph of the marriage ceremony on record. The learned Counsel requested to allow the applicant-claimant No.2 to get withdraw the compensation amount in the name of Anjali Suredrakumar Mourya instead of her maiden name Anjali Sabhajit @ Rajesh Mourya. The Registrar of the M. A. C. T., Satara to take note of the same and on proper identification disburse the amount in favour of both the applicants accordingly.

4. The Civil Application stands disposed of accordingly.

[K. K. SONAWANE, J.]