

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

**CIVIL APPLICATION NO.990 OF 2018
IN
FIRST APPEAL (STAMP) NO.26579 OF 2016**

Smt. Nuzhat Rehan Khan & Ors. ...Applicants

in the matter between :-
Bombay Electricity Supply and
Transport ...Appellant

Versus

Smt. Nuzhat Rehan Khan & Ors. ...Respondents

.....

Mr. Bharat Gadhvi i/b. Mr. Surendra Sonawane for the Applicants.
Ms Kavita Anchan for the Appellant.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 21st MARCH, 2018.

P.C.:-

The Applicant No.1 is the widow and the Applicant Nos.2 and 3 are the parents of deceased Rehan Khan, who expired in a motor vehicular accident. The Applicants /original claimants had filed a petition under Section 166 of the Motor Vehicle Act, 1988 bearing Application No.743 of 2008 before the Motor Accident Claims Tribunal, Mumbai. By judgment and award dated 1.12.2015, the M.A.C.T., Mumbai directed the Appellant herein to pay to the Applicants sum of Rs.51,66,528/- with interest @ 9% p.a. from the date of filing of the

petition. The Appellant has challenged the said award and during the pendency has deposited Rs.95,26,568/-, which is inclusive of the interest.

2. By this application, the Applicants have prayed that the amount deposited by the Appellant be paid to them. A perusal of the appeal memo prima facie indicates that the Appellant has not challenged the liability but has mainly raised the defence of contributory negligence. Under such circumstances, interest of the parties would be secured by directing payment to the extent of 50% of compensation deposited by the Appellant.

3. Hence, 30% of total compensation with proportionate interest accrued thereon is ordered to be paid to the claimant No.1 being widow of the deceased. 10% of the total compensation alongwith accrued interest be paid to each of the Applicant Nos.2 and 3 being parents of the deceased. The application stands disposed of accordingly.

4. It is made clear that the payment is subject to the final outcome of the appeal. The Applicants shall give an undertaking

before the Tribunal that they shall abide by the orders that may be passed in the appeal.

(SMT. ANUJA PRABHUDESSAI, J.)