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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (St.) No. 34507 OF 2017
WITH
CIVIL APPLICATION NO. 981 OF 2018
WITH
CIVIL APPLICATION NO. 982 OF 2018
WITH
CIVIL APPLICATION NO. 983 OF 2018

BHARTI AXA General Insurance
Company Limited

... Appellant

Vs.

Tukaram Subhana Dorugade & Others

... Respondents

Mr. Rahul Mehta for the Appellant in FAST No. 34507 of 2017 and CAF No. 981 of 2018 and CAF No. 982 of 2018, for Respondents in CAF No. 983 of 2018.

Mr. S. Y. Thorat for the Respondent Nos. 1&2 in FAST No. 34507 of 2017, CAF No. 981 of 2018, CAF No. 982 of 2018 and Applicant in CAF No. 983 of 2018.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 18, 2018

PC :-

CIVIL APPLICATION NO. 981 OF 2018

1. This is an application for condonation of 62 days

delay caused in filing the present appeal. Heard Learned Counsel for applicant and Respondent Nos. 1 & 2. By the order dated 23.4.2018 of this Court, notice to respondent Nos. 3 to 7 is dispensed with. Perused Civil Application. For the reasons stated in Civil Application this Court is satisfied that a case is made out for condonation of delay. Accordingly delay is condoned and civil application is allowed and disposed in terms of prayer clause (a). Office to register the appeal after removal of the office objections by the appellant.

CIVIL APPLICATION NO. 983 OF 2018

2. This is the application filed by the original claimants who are parents of the deceased Sarika, who succumbed to injuries on 26.4.2012 sustained in the accident, for withdrawal of the compensation deposited by the Insurance Company. Heard the learned counsel for the claimants and the learned counsel for the Insurance Company. Learned counsel for the Insurance Company submits that Insurance Company has deposited the entire amount of compensation in the court below.

3 After hearing learned counsels for both the parties,

in the interest of justice I pass following order :

- (i) Applicants are entitled to withdraw 50% of the amount deposited by the Insurance Company in the Lower Court along with interest in equal proportion.
- (ii) Remaining 50% of the amount along with statutory deposits (already transferred to the learned Lower Court) be deposited in any nationalised bank initially by the court below, initially, for a period of three years and continue to renew the same as and when occasion arises.
- iii) Civil Application No. 983 of 2018 is accordingly partly allowed in the aforesaid terms.

FIRST APPEAL (St.) No. 34507 OF 2017

4. Heard the learned counsel for the Appellant. **Admit.** Learned Counsel Mr. S. J. Thorat, waives service of notice for Respondent Nos. 1 & 2. By the order dated 23.4.2018 of this Court, notice to respondent Nos. 3 to 7 is dispensed with. Call for records and proceedings.

CIVIL APPLICATION No. 982 OF 2018

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 claimants. 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 9.6.2017 passed in Motor Accident Claim No. 39 of 2012 by the learned Member, Motor Accident Tribunal at Gadhinglaj, which the trial court will be investing in the nationalised bank.

6. Civil Application No. 982 of 2018 is disposed of in the aforesaid terms.

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

Vinayak Halemath