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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL No. 51 OF 2017
WITH
CIVIL APPLICATION No. 1742 OF 2018
WITH
CIVIL APPLICATION No. 255 OF 2017

ICICI Lombard General Insurance Co. Ltd. ... Appellants
Vs.
Smt. Jyoti Anant Awachat & Ors. ... Respondents

Ms. Dipika Prabala I/b Res Juris, for the Appellant, and for Applicant in CAF. 255/2017 and for Respondent in CAF. 1742/2018.

Ms. Rekha Musale I/b Rajesh More, for the Applicant in CAF. 1742/2018 and for the Respondent Nos. 1 to 4 in FA. 51/2017, CAF. 255/2017.

Mr. Maleen, A. R. Shaikh, for Respondent No. 7 in FA. 51/2017.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 18, 2018

PC :-

FIRST APPEAL No. 51 OF 2017

1. Heard the learned counsel for the Appellant. **Admit.**
Learned counsel Ms. Rekha Musale and Mr. Maleen waive service of notice for the Respondent Nos. 1 to 4, and Respondent

No. 7 respectively. Call for record and proceedings.

CIVIL APPLICATION No. 1742 OF 2018

3. This is an application filed by the original claimants for withdrawal of the amount of compensation deposited by the insurance company before the court below. The learned court below vide impugned judgment and award dated 22.3.2016 passed by the Member, Motor Accident Claims Tribunal, Pune has directed the insurance company to pay Rs. 36,76,135/-to the claimants including the amount of “no fault liability”, alongwith interest @ 8% p.a.. In clause (2)(a) and (b) of the operative order, apportionment is also made by the Tribunal. The learned counsel for the insurance company submits that the insurance company has deposited the entire amount of compensation, in the court below.

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

(i) The Applicants / original claimants are entitled to

withdraw 50% of the amount deposited by the insurance company in the lower Court alongwith the interest, in the same apportionment granted by the Court below.

- (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. 1742 of 2018 is accordingly partly allowed and disposed of in the aforesaid terms.

CIVIL APPLICATION No. 255 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 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 22.3.2016 passed in MACP No. 1009 of 2010 by the learned Tribunal at Pune, which the trial court will be investing in the nationalised bank.

6. Civil Application No. 255 of 2017 is disposed of in the aforesaid terms.

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

Vinayak Halemath