

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 3567 OF 2018**IN****FIRST APPEAL (ST) NO. 11862 OF 2018**

ICICI Lombard General Insurance

Co. Ltd.

....Applicant

V/s.

Smt. Jaya Tarun Gurnani and Ors.

....Respondents

Ms. Nisha Gandhi I/by. Res Juris, Advocate for the
applicant.

Coram : K.K. Tated, &**Sandeep K. Shinde, JJ.****Wednesday, 10th October, 2018.****P.C. :**

1. Heard Learned Counsel for the applicant.
2. The Learned Counsel for the applicant
submits that, by this Civil Application they are seeking

stay of the operation and implementation of the impugned judgment and Award dated 21st September, 2017 passed by the Motor Accidents Claim Tribunal at Pune in M.A.C.P. No. 21 of 2007 holding that the respondents-claimants are entitled to compensation of Rs.86,04,000/- with interest at the rate of 7.5% p.a.

3. The Learned Counsel for the applicant submits that, they are challenging the impugned judgment and award on the ground of breach of terms and conditions of the policy. She submits that, these facts are not considered by the Tribunal at the time of passing the order.

4. The Learned Counsel for the applicant submits that, she received instructions from her client, they are ready and willing to deposit the entire awarded amount alongwith interest, if any with the Motor Accidents Claim Tribunal, Pune within 8 weeks from

today.

5. On the basis of these submissions, learned Counsel for the applicant submits that, pending the hearing and final disposal of appeal, operation and implementation of order passed by Tribunal may be stayed. She submits that, if stay is not granted, irreparable loss will be caused to them.

6. In the present proceedings, in accident happened on 21st July, 2006 in which the respondents-claimants lost their husband/father.

7. Considering the impugned judgment passed by the Tribunal and the amount awarded in favour of the respondent-claimants, we are of the opinion that, they are entitled to withdraw some amount without furnishing any security. Not only that, the present order is passed without issuing notice to them. Hence, liberty is required to be granted to claimants to prefer

appropriate application for withdrawal of remaining amount and that application shall be decided on its own merits.

8. Hence, the following order :

(a). The operation and implementation of the impugned judgment and Award dated 21st September, 2017 passed by the Motor Accidents Claim Tribunal at Pune in M.A.C.P. No. 21 of 2007 is stayed till the hearing and final disposal of the First Appeal on condition that, the applicant to deposit the entire awarded amount with interest and costs before the Tribunal within 8 weeks from today, failing which the Civil Application shall stand dismissed without sending back to the Court.

(b). If that amount is deposited within the stipulated time as stated hereinabove, the Tribunal is directed to invest the said amount in any nationalised Bank for a period of one year and renewal to be continued till further orders.

(c). Liberty is granted to the original claimants i.e. respondents no.1, 2, 3 and 4 to withdraw a sum of Rs.15,00,000/- each without furnishing any security at present.

(d). Liberty granted to the respondent-claimants, if they so desire, to prefer appropriate application for withdrawal of the remaining amount and that application to be decided on its own merits.

(e). If the amount is not deposited within the

stipulated time as stated hereinabove, the respondent-claimants are entitled to execute the judgment and award dated 21st September, 2017 passed by the Motor Accidents Claim Tribunal at Pune in M.A.C.P. No. 21 of 2007, according to law.

(f). Civil Application stands disposed off accordingly.

(g). No order as to costs.

(SANDEEP K. SHINDE, J)

(K.K. TATED, J)