

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1886/2017
IN
FIRST APPEAL (ST) NO.12102/2017

New India Assurance Co. Ltd. ... Applicant

V/s.

Smt. Poonam Sachin Awte & Ors. ... Respondents

Mr. Milind V. More for the Applicant
None for the Respondent

**CORAM: K.K. TATED &
SARANG V. KOTWAL, JJ.**

**DATED : APRIL 12, 2018
(In Chamber at 2.45)**

PC. :

1 Heard. Today the matter is placed on board for speaking to the minutes of order dated 15.01.2018.

2 In cause of title of the said order, instead of **Civil Application No.1885/2017** it should be **Civil Application No.1886/2017**.

3 Rest of order shall remain as it is.

4 Civil Application No.1885/2017 be placed on board for final hearing on its own merits, as per its turn.

(SARANG V. KOTWAL, J)

(K.K. TATED, J.)

CORRECTED ORDER DATED 15.01.2018

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1886 OF 2017

IN

FIRST APPEAL (STAMP) NO.12102 OF 2017

The New India Assurance Co. Ltd] ... Applicant

Versus

Smt. Poonam Sachin Awte & Ors.] ... Respondents

Mr. Milind V. More a/w Mr. Sudhakar Pandaram for Applicant.
None for Respondents.

**CORAM :- K. K. TATED &
SARANG V. KOTWAL, JJ.**
DATE :- 15 JANUARY, 2018

P. C. :-

1. Heard the learned Counsel for the Applicant

2. This is an application preferred by the Insurance Company for stay of the operation and implementation of the Judgment and Award dated 09/08/2016 passed by the Additional Member, MACT, Pune, in MACP No.10 of 2014 holding that the

Claimants are entitled for the sum of Rs.36,86,886/- with interest @ 9% p.a. from the date of the petition till realization by way of compensation.

3. Mr. Milind V. More, the learned Counsel for the Applicant, submitted that the Applicant has already deposited the entire amount under the Award with the Tribunal and he further submitted that pending the hearing and final disposal of the present First Appeal, the operation and implementation of the impugned Award passed by the Trial Court be stayed. He submitted that the Trial Court erred in coming to the conclusion that the Respondents – Claimants were entitled to the aforesaid sum by way of compensation with interest. He further submitted that the Court below failed to properly appreciate the material evidence on record in respect of income proof of the deceased. He submitted that if the entire amount is withdrawn by the Claimants, nothing will survive in the First Appeal and if the Applicant succeeds in the present First Appeal, it would be very difficult to recover the entire amount from the Respondents – Claimants. He submitted that in view of this, the operation and implementation of the impugned Award be stayed.

4. It is to be noted that in the present proceeding, the accident took place on 13/07/2013 in which Sachin Awte expired. The widow, a minor son and the parents of the deceased filed

Claim Petition claiming compensation from the Applicant and other Respondents. On the date of the accident, the deceased was working as an Executive in the IT Department of Agility Logistics Pvt. Ltd. And he was earning Rs.31,149/- per month.

5. Considering the age of the deceased, the Trial Court applied the multiplier of 17 and arrived at a figure of compensation which was awarded to the Claimants. The Claimant No.1 is a widow of the deceased and has to look after her minor son as well as the parents of the deceased who are Claims Nos.3 and 4.

6. Considering these facts, we are of the opinion that the Claimants can be permitted to be withdrawn some amount for their maintenance. Hence, the following Order :

ORDER

- (I) The operation and implementation of the Judgment and Award dated 09/08/2016 passed by the learned Additional Member, MACT, Pune, in MACP No.10 of 2014, is stayed till further orders.
- (ii) The Respondents - Claimants are permitted to withdraw the following amount without furnishing any surety :-

- (a) Claimant No.1 - Smt. Poonam Sachin Awte
– 20% of the total amount,
 - (b) Claimant No.3 – Shri Dattatraya Rambhau
Awte – 5% of the total amount,
 - (c) Claimant No.4 – Smt. Renuka Dattatraya
Awte – 5% of the total amount.
- (iii) Liberty granted to the Respondents – Claimants to prefer appropriate application for withdrawal of the further amount and that application be decided on its own merits.
- (iv) The Tribunal is directed to invest the remaining amount in a fixed deposit of any nationalized bank for a period of one year to be renewed periodically till the hearing and final disposal of this First Appeal.
- (iii) Civil Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

(K. K. TATED, J.)