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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 1145 OF 2015
IN
FIRST APPEAL (St.) No. 18490 OF 2014
WITH
CIVIL APPLICATION No. 1146 OF 2015
WITH
CIVIL APPLICATION No. 2442 OF 2018

The New India Assurance Co. Ltd. ... Appellants
Vs.
Smt. Salma Sameer Irani & Ors. ... Respondents

Ms. Poonam Mital, for the Appellant, for Applicant in CAF. 1145/2015, 1146/2015 and for Respondent in CAF. 2242/2018.
Mr. Sagar Kursija I/b T. D. Deshmukh, for the Applicant in CAF. 2242/2018, for Respondent Nos. 1 & 3 in CAF. 1145/2015, 1146/2015 and FAST. 18490/2014.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 18, 2018

PC :-

CIVIL APPLICATION No. 1145 OF 2015

1. This is an application filed by the insurance company for condonation of 118 days caused in lodging the first appeal, challenging judgment and award dated 13.11.2013 passed by

the learned Member, Motor Accident Claims Tribunal, Pune in MACT Application No. 779 of 2008. Since, the learned counsel for the original claimants has no objection, and for the reasons stated in the application, said delay is condoned. Application is accordingly allowed and disposed of in terms of prayer clause (a). Office to register the appeal after removal of office objections by the Appellant.

FIRST APPEAL (St.) No. 18490 OF 2014

2. Heard the learned counsel for the Appellant. **Admit.** Learned counsel Mr. Sagar Kursija waives service of notice for the original claimants. Call for record and proceedings

CIVIL APPLICATION No. 2442 OF 2018

3. This is an application filed by the original claimants, who are - widow (Applicant No.1), son (Applicant No.2) and the mother (Applicant No.3) of the deceased Sameer Irani, for withdrawal of the amount of compensation deposited by the insurance company before the court below. The learned court below has directed the insurance company and other opponents therein to pay Rs. 20,25,000/-to the claimants including the

amount of “no fault liability”. Directions of apportionment were also given in the said order. The learned counsel for the insurance company submits that the insurance company has deposited entire amount of compensation, in the court below.

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

- (i) The claimants are entitled to withdraw 50% of the amount deposited by the insurance company in the lower Court. Out of the said 50% amount, Applicant Nos. 1 and 2 are jointly entitled to receive 75% of the said amount, and remaining 25% of the said 50% amount shall be paid to Applicant No. 3 - mother of the deceased.
- (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. 2442 of 2018 is accordingly partly allowed and disposed of in the aforesaid terms.

CIVIL APPLICATION No. 1146 OF 2015

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 13.11.2013 passed in MACT Application No. 779 of 2008 by the learned Tribunal at Pune, which the trial court will be investing in any nationalised bank.

6. Civil Application No. 1146 of 2015 is disposed of in the aforesaid terms.

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

Vinayak Halemath