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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO. 2342 OF 2018
IN
FIRST APPEAL (ST) NO. 18015 OF 2018

Maharashtra Stage Road Transport
Corporation ...Applicant/Appellant
vs
Smt. Anita Gurudas Kamath & Ors. ...Respondents

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Mr C.M.Lokesh I/b Gopal Krishna Shivaram Hegde for the
Applicant/Appellant.

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**CORAM : K.K.TATED, &
B.P.COLABAWALLA, JJ.
JULY 11, 2018.**

P.C. :

Heard Mr Lokesh, learned counsel for the applicant.

2 This application is preferred by the applicants-
original opponent for stay of operation and implementation of
the Judgment and Award dated 19th January, 2018 passed by
the Motor Accident Claims Tribunal, Pune in Motor Accident
Claim Petition No. 537 of 2015 holding that the Respondents
are entitled to a sum of Rs.2,09,79,350/- with 9 % interest from
the date of Petition till realization of entire amount, by way of
compensation.

3 The learned counsel for the applicant submits that the respondents claimants filed execution proceedings for recovery of the entire awarded amount towards the compensation. He submits that if entire awarded amount is recovered by the claimants in execution proceedings, then nothing will survive in the present First Appeal. He submits that they have good chance of success in the present proceedings. He submits that the Tribunal has not considered the relevant documents on record at the time of awarding the compensation in favour of the Respondents original claimants. He further submits that even the Tribunal has considered future prospectus of the deceased at the time of calculating the compensation. He submits that the Tribunal has failed to consider the fact the respondents claimants failed to place on record any documentary evidence to show the future prospectus of the deceased person. Therefore, if entire amount is recovered by the respondents claimants in execution proceedings and if the applicant succeeds in the present First Appeal then it will be very difficult for them to recover the said amount from the Respondents. Therefore, in the interest of Justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award passed by the Tribunal. He submits that he received instruction from his client by letter dated 06.07.2018 stating that the applicants are ready and willing to deposit the entire awarded amount along with interest within four weeks in the Tribunal. The said letter is taken on record and marked "X" for identification.

4 In the present proceedings, in an accident which occurred on 20th June, 2015, Respondent No.1 lost her husband. He was working as Deputy General Manager in TATA Consulting Engineers and was getting salary of Rs.1,89,547/- per month.

5 Considering the impugned Judgment and Award, it seems that the Tribunal has considered future prospectus of the respondents and awarded sum of Rs.2,09,79,350/- by way of compensation. It is to be noted that the original claimant is wife, whereas claimant Nos.2 and 3 are taking education. Claimant No.3 is minor.

6 Considering these facts, we are of the opinion that the claimants may be permitted to withdraw the sum without furnishing any security. Considering all these, following order is passed:

- (a) Operation and implementation of the impugned Judgment and Award dated 19th January, 2018 passed by the Motor Accident Claims Tribunal, Pune in Motor Accident Claim Petition No. 537 of 2015 is stayed till further orders on condition that the applicant to deposit entire awarded amount along its interest, costs in Motor Accident Claims Tribunal, Pune within four weeks from today, failing which the Civil Application shall stand dismissed without further reference to the Court;
- (b) If amount is not deposited within stipulated time as stated herein above, the respondent - claimants are

permitted to proceed with the Execution Application in accordance with law;

- (c) If the entire amount is deposited as stated herein above, Respondent No.1 Anita Gurudas Kamath, Respondent No.2 Shruti Gurudas Kamath are entitled to withdraw 15 % each of entire amount deposited by the applicants without furnishing any security;
- (d) Tribunal is directed to invest the remaining amount in Fixed Deposit in any Nationalized Bank initially for a period of one year and same to be continued till further orders;
- (e) Liberty granted to the respondents – claimants to file separate application for withdrawal of additional amount. If they prefer appropriate application for withdrawal of additional amount that application may be decided on its own merits;
- (f) The Civil Application stands disposed of accordingly.
- (g) No order as to costs.

(B.P.COLABAWALLA, J.)

(K.K.TATED, J.)

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