

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION NO. 4693 OF 2016
IN
FIRST APPEAL NO. 1645 OF 2016**

Reliance General Insurance Co. Ltd. ...Applicant

Versus

Smt. Hansaben @Lilaben Hirabhai Vavadiya
& Ors. ...Respondents

**WITH
CIVIL APPLICATION NO. 56 OF 2018
IN
FIRST APPEAL NO.1645 OF 2016**

Smt.Hansaben @ Lilaben Hirabhai Vavadiya
& Ors. ...Applicants

IN THE MATTER OF FIRST APPEAL NO. 1645 OF 2016

The Reliance General Insurance Co. Ltd. ...Appellant

Versus

Smt. Hansaben @Lilaben Hirabhai Vavadiya &Ors. ...Respondents

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Ms. Poonam Mital for the Applicant in CAF No. 4693 of 2016 and the
original Appellant in FA.

Ms.Rina Kundu for the Applicants in CAF No. 56 of 2018

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATE : JANUARY 09, 2018**

P.C.:

1. Upon urgent mentioning, taken on Production Board.

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2. By this Civil Application, the applicant seeks stay to the execution and implementation of the judgment and award dated 16th March, 2016 passed by the learned Member, Motor Accident Claims Tribunal, Thane in M.A.C.P. No. 23 of 2011. The learned Counsel for the applicant submits that the applicant/ insurance company has deposited the entire decretal amount along with interest accrued thereon.

3. In view of the above submission, the operation and execution of the impugned judgment and award is stayed, pending Appeal.

4. Civil Application is allowed and is disposed of accordingly.

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5. This Application is moved by the applicants/original claimants for withdrawal of an amount of Rs. 13,05,000/- along with interest @8% p.a. deposited by the insurance company/original appellant pursuant to the judgment and award dated 16th March, 2016 passed

by the learned Member, Motor Accident Claims Tribunal, Thane in M.A.C.P. No. 23 of 2011. The tribunal has further directed that an amount of Rs. 4 lakhs each is to be invested in a fixed deposit in the name of minor applicant nos. 2 and 3 for a period of three years. An amount of Rs. 1,50,000/- each is to be paid to applicant nos. 4 and 5 and the remaining amount is to be given to applicant no. 1.

6. The learned counsel for the applicants submitted that the applicants are the wife, two minor children and parents of the deceased. Therefore, they be allowed to withdraw the amount deposited by the insurance company.

7. Considering the facts of the case and the submissions, applicant nos. 4 and 5 i.e., parents of the deceased are allowed to withdraw 50% of the amount along with interest accrued thereon as per their entitlement on an usual undertaking and applicant no.1 i.e., the wife of the deceased is allowed to withdraw 50% of the amount alongwith interest accrued thereon on an usual undertaking as per clause 5 of the operative portion of judgment and award. The remaining amount is to be deposited in the fixed deposit in any nationalized bank.

8. Civil Application is allowed and is accordingly disposed of.
9. The appellant/insurance company to remove office objections.

(MRIDULA BHATKAR, J.)