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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (St.) No. 26397 OF 2016
WITH
CIVIL APPLICATION No. 4210 OF 2016
WITH
CIVIL APPLICATION No. 2273 OF 2018

The New India Assurance Co. Ltd. ... Appellant
Vs.
Smt. Manisha Avinash Thombre & Anr. ... Respondents

Ms. Poonam Mital, for the Appellant, and for Applicant in CAF. 4210/2016 and for Respondent in CAF. 2273/2018.

Mr. Vijay D. Upadhyay, for the Respondent Nos. 1 to 4 in FAST. 26397/2016 & CAF. 4210/2016, and for Applicant in CAF. 2273/2018.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 4, 2018

PC :-

CIVIL APPLICATION No. 4210 OF 2016

1. This application filed by the insurance company for condonation of 6 days delay caused in filing the first appeal, challenging the judgment and award of the learned Tribunal, passed in MACP No. 533 of 2014. Heard the learned counsel

appearing for the parties. For the reasons stated in the application, said delay is condoned and Civil Application No. 4210 of 2016 is allowed and disposed of in terms of prayer clause (a). Office is directed to register the appeal.

FIRST APPEAL (St.) No. 26397 OF 2016

2. Heard the learned counsel for the Appellant. **Admit.** Learned counsel Mr. Vijay Upadhyay waives notice for Respondent Nos. 1 to 4. Call for record and proceedings. Issue notice to Respondent No. 5.

CIVIL APPLICATION No. 2273 OF 2018

3. This application is filed for withdrawal of the amount, deposited by the insurance company with the Tribunal, by the Original claimants since other claimants are minors. By an impugned judgment and award dated 4.5.2016 passed in MACP No. 533 of 2014, learned Tribunal directed insurance company and other respondent therein to pay Rs.29,91,150/- which is inclusive of no fault liability alongwith interest @ 9% p.a. Learned Tribunal has done apportionment of the order. By

the said order, Applicant Manisha Thombre is held entitled to get Rs.9,00,000/-, out of which Rs.4,00,000/- was directed to be invested in any nationalised bank and the remaining amount was directed to be paid to her by account payee cheque.

4. Applicant No. 4 Smt. Dwarkabai in the claim petition, who is Applicant No. 2 herein was directed to receive compensation of Rs. 2,41,950/-, which amount was directed to be paid to her by account payee cheque.

5. Though the learned Tribunal has held that the Applicant No. 1 and Applicant No. 4 are entitled to receive Rs.29,91,950/-, till today they have not received the amount. Learned counsel for the insurance company submitted that entire mount is already deposited with the Tribunal at Pune. In that view of the matter, I pass the following order:

- (i) Applicant No. 1 Smt. Manisha Thombre is entitled to withdraw amount of Rs.5,00,000/-, out of the amount deposited by the insurance company with the Tribunal at Pune. This amount shall be paid to

her by account payee cheque. Similarly, Applicant No. 2 Smt. Dwarkabai Thombre shall be paid Rs.2,41,950/- by account payee cheque out of the amount deposited by the insurance company with the Tribunal;

- (ii) Learned Tribunal shall invest the remaining amount in any nationalised bank, initially for a period of three years and continue to do so, as and when occasion arises;
- (iii) Civil Application No. 2273 of 2018 is partly allowed and disposed of in the aforesaid terms.

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

Vinayak Halemath