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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 250 OF 2016
IN
FIRST APPEAL (St.) No. 24567 OF 2015
WITH
CIVIL APPLICATION No. 251 OF 2016
WITH
CIVIL APPLICATION No. 3174 OF 2017

United Insurance Co. Ltd. ... Appellant
Vs.
Mrs. Nitu Sanjeev Singh & Ors. ... Respondents

Mr. Ketan Joshi, for the Appellant, for Applicant in CAF. 250/2016, CAF. 251/2016 and for Respondent in CAF. 3174/2017.

Mr. Rohit S. Gangawane, for the Respondent Nos. 1 & 2 in CAF. 250/2016, CAF. 251/2016 and FAST. 24567/2015, and for Applicant in CAF. 3174/2017.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 4, 2018

PC :-

CIVIL APPLICATION No. 250 OF 2016

1. This is an application filed by the Insurance Company for condonation of 47 days delay caused in filing the

First Appeal, challenging the judgment and award 26.2.2015 passed by the Motor Accidents Claim Tribunal in Motor Accidents Claim Application No. 479 of 2013. Heard learned counsel appearing for the parties. Though the learned counsel appearing for the original claimants has vehemently opposed the application, the delay caused in filing the first appeal is condoned. Civil Application No. 250 OF 2016 is accordingly allowed and disposed of in terms of prayer clause (a).

CIVIL APPLICATION No. 3174 OF 2017

2. This is an application filed by the original claimants for withdrawal of the amount, so deposited by the Insurance Company. Heard learned counsel appearing for the parties. The original claimants are the wife and the minor daughter of deceased Sanjeev Singh, who lost his life in an accident on 30.1.2013. Learned Tribunal has directed the opponents in the claim petition to pay compensation of Rs. 21,49,992/-, including the amount no fault liability, to the claimants alongwith interest at the rate of 7% p.a.

3. The amount, as directed by the Tribunal is deposited by the Insurance Company before the learned Tribunal, is the statement made by the learned Counsel by the Insurance Company. The statement is accepted.

4. The claimant wife is not having any avocation to earn livelihood for herself and for her minor daughters, one of whom is not joined as party in this Application. Though this application is filed on 19th July 2017 till today, the reply is not filed by the Insurance Company, thereby the statements made in this application remained uncontroverted. In that view of the matter, I pass following order;

(i) The claimants are entitled to withdraw 50% of the amount, so deposited by the Insurance Company before the learned Tribunal. At the time of withdrawal of the said amount, the applicants shall give an undertaking that in the event appellant Insurance Company succeeds in the appeal, they will refund the amount alongwith interest which will be

determined by the Court at that time, within one and half year from the date of judgment in the appeal.

- (ii) The learned Tribunal shall invest the remaining 50% of the amount so deposited by the Insurance Company in any nationalised bank, initially for a period of three years and continue to renew the same as and when occasion arises, so as to save loss of interest of the applicants / claimants.
- (iii) The appellants are at liberty to file application for withdrawal of the amount after four years if they are able to point out hard pressing necessity to the Court

CIVIL APPLICATION No. 251 OF 2016

5. This is an application for stay to the impugned judgment and award of the dated 26.2.2015 of the learned Tribunal passed in Claim Application No. 479 of 2013. Heard the learned counsel appearing for the parties. Today this Court has allowed the original claimants to withdraw 50% of the amount so deposited by the Insurance Company. Since the

entire amount is already deposited by the Insurance Company and 50% amount is allowed to be withdrawn by the original claimants, I pass following order.

- (i) During pendency of the appeal, there shall be stay to the execution of impugned judgment and award dated 26.2.2015 passed by the Motor Accidents Claim Tribunal, Pune in Motor Accidents Claim Application No. 479 of 2013.
- (ii) Application is allowed, and disposed of in terms of prayer clause (b).

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

Vinayak Halemath