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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 1693 OF 2016
IN
FIRST APPEAL (St.) No. 26548 OF 2015
WITH
CIVIL APPLICATION No. 1644 OF 2018
WITH
CIVIL APPLICATION No. 1694 OF 2016

Reliance General Insurance Co. Ltd. ... Appellant
Vs.
Smt. Jasmine M. Modi & Ors. ... Respondents

Ms. Poonam Mital, for the Appellant, Applicant in CAF.
1693/2016, CAF. 1694/2016, and for the Respondent in CAF.
1644/2018.

Ms. Varsha Chavan, for the Applicant in CAF. No. 1644/2018,
and for Respondent No. 1 in CAF. 1693/2016, 1694/2016 and
FAST. 26548/2015.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 18, 2018

PC :-

CIVIL APPLICATION No. 1693 OF 2016

1. This is an application filed by the insurance company
for condonation of 139 days caused in lodging the first appeal,
challenging judgment and award dated 13.1.2015 passed by the

learned Member, Motor Accident Claims Tribunal, Pune in MACT Application No. 2113 of 2010. Learned counsel Ms. Varsha Chavan appears for Respondent No. 1, and Respondent Nos. 3 and 4 did not appear though served. Presence of Respondent No. 5, who is owner of offending vehicle, is not necessary for the purpose of deciding this application. Since, the learned counsel for the original claimant / Respondent No. 1 has no objection, and for the reasons stated in the application, the 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. 26548 OF 2015

2. Heard the learned counsel for the Appellant. **Admit.** Learned counsel Ms. Varsha Chavan waives service of notice for the Respondent No. 1. Call for records and proceedings.

CIVIL APPLICATION No. 1644 OF 2018

3. This is an application filed by the original claimants, who are - widow (Applicant No.1), son (Applicant No.2), the

parents (Applicant No.3 and 4) of the deceased Mitul Modi, for withdrawal of the amount of compensation deposited by the insurance company before the court below. The learned court below vide impugned judgment and award has directed the insurance company to pay Rs. 17,05,000/- to the claimants including the amount of “no fault liability” alongwith interest @ 7.5% p.a.. Directions of apportionment were also given in the said order. The learned counsel for the insurance company has made a statement that the insurance company has deposited the entire compensation amount in the lower court. As per apportionment made by the court below, the claimant / Applicant Nos. 1 and 2, each are entitled to 35% amount, and Applicant Nos. 3 and 4 are entitled to 30% amount to alongwith the accrued interest.

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 Applicants are entitled to withdraw 50% of the

amount deposited by the insurance company in the lower court, alongwith the accrued interest as under:

- (a) Out of the 50% amount with interest, Applicant Nos. 1 and 2 each are entitled to withdraw 35% amount.
- (b) Out of the 50% amount with interest, Applicant Nos. 3 and 4 are entitled to withdraw 30% amount in equal shares.
- (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. 1644 of 2018 is accordingly partly allowed and disposed of in the aforesaid terms.

CIVIL APPLICATION No. 1694 OF 2016

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, pending hearing and disposal of the appeal, there shall be stay in respect of 50% of the compensation awarded vide impugned judgment and award, dated 13.1.2015 passed in MACT Application No. 2113 of 2010 by the learned Tribunal at Pune, which the trial court will be investing in any nationalised bank.

6. Civil Application No. 1694 of 2016 is disposed of in the aforesaid terms.

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

Vinayak Halemath