

Sarnobat

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

**CIVIL APPLICATION NO. 3880 OF 2017
ALONGWITH
CIVIL APPLICATION NO. 3881 OF 2017
ALONGWITH
CIVIL APPLICATION (STAMP) NO. 9925 OF 2018
IN
FIRST APPEAL (STAMP) NO.27933 OF 2017**

The New India Assurance Co. Ltd. ... Applicant.
Vs.
Manisha Rejendra Nikam & Ors. ... Respondents.

Mr. Shrikant M. Dange, for the Applicant in CAF 3880/17 & 3881/17.
Mr. Pritesh K. Bohade, for the Applicant in CAFST 9925/18

CORAM : V. M. DESHPANDE, J.

DATE : 17th JULY, 2018.

P. C. :

CIVIL APPLICATION NO. 3880 OF 2017.

1. Heard the learned counsel for the applicant and learned counsel for the claimants 1 to 4. The presence of the non-applicant No. 5 is not necessary since he is the owner of offending vehicle. The delay is of 15 days for filing the appeal. Though this application strongly opposed by the learned counsel for the claimants in the application, looking to the duration of the delay, the delay is condoned. Office to

register the appeal.

FIRST APPEAL (STAMP) NO.27933 OF 2017.

2. Heard the learned counsel for the appellant. The present appeal is directed against the judgment and award passed by learned MACT, Nasik dated 23rd March, 2017 in MACP No. 190 of 2012 by which the learned Judge of the Court below has granted compensation of Rs. 1,27,00,000/- (Rs. One Crore Twenty seven Lakh only) along with interest at the rate of 6% per annum in favour of the original claimants.

3. The learned counsel for the appellant Mr. Dange for the applicant states that the learned Judge of the Court below has granted compensation on a very high side looking to the fact that the deceased was only a LIC agent. He also relied on the decision of the Apex Court reported in (2008)4 Supreme Court Cases 224 to buttress his point that Court below committed error on relying on Income Tax returns of deceased which were filed before Tax authorities after the death. After hearing the learned counsel appeal is **admitted**. Call record and proceedings.

4. Learned counsel Mr. Pritesh Bohade, waives service for original claimants.

CIVIL APPLICATION (STAMP) NO. 9925 OF 2018

5. This application filed on behalf of the claimants for

withdrawal of the amount. Heard the learned counsel for the claimants and learned counsel for Insurance Company. The appeal of the Insurance Company is admitted on the ground of quantum. However, according to the Insurance Company the claimants are entitled to receive an amount of Rs.27,00,000/- along with interest. In view of this statement made in the memo of appeal and also during the course of the submission by Shri Dange, the application is partly allowed . The claimants are entitled to withdraw the amount of Rs.27,00,000/- along with interest thereon.

6. The remaining amount shall be invested by the Court below in any nationalized bank initially for a period of three years and shall continue to do the same. Application is partly allowed and disposed of.

CIVIL APPLICATION NO. 3881 OF 2017

7. This is an application for stay. The appeal is directed against the judgment and award passed by learned MACT, Nasik dated 23rd March, 2017 in MACP No. 190 of 2012. The appeal is admitted as per the direction given by this Court. The Insurance Company has deposited entire amount of Rs.1,27,00,000/- before the Court below. Today this Court has also allowed the application in part for withdrawal filed by the original claimants. In that view of the matter there shall be stay to the execution of the judgment and award of the Court below in

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respect of remaining amount after the withdrawal of the amount by original claimant.

[V. M. DESHPANDE,J.]